# TRIAL AND CONVICTION

OF

# JACK REYNOLDS

FOR THE

## HORRIBLE MURDER OF WILLIAM TOWNSEND.

Compiled by A. H. HUMMEL, from the Stenographer's Notes.

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# THE TRIAL OF JACK REYNOLDS.

The trial of Jack Reynolds for the atrocious murder of an inoffensive grocer named William Townsend, on aquiet Saturday eve, was announced by the New York journals to take place on Monday morning, February 21st, 1870, at half past ten o'clock. The morbid curiosity to witness the murderer was so great that the court-room of the Court of Oyer and Terminer, which is the largest in the new County Court House, was crowded to excess long before the trial commenced. A large portion of the assemblage was composed of persons belonging to the upper classes of society, including, strange to say, many elegantly attired ladies, who watched the proceedings with the utmost interest. When Reynolds entered the court-room he was escorted by two deputy sheriffs, and the audience at once arose to their feet, so great was the anxiety to obtain a view of the reckless culprit. His miserable, dogged appearance, and expressionless countenance, astonished every one, and a close inspection revealed a head unnaturally formed. Throughout the entire trial he seemed to pay but slight attention to the details of the evidence, and his counsel rarely consulted him. The widow and children of the murdered man occupied prominent seats in the extremity of the court-room, and remained present until the conclusion of the trial. Punctually at half-past 10 o'clock

Honorable Daniel P. Ingraham,

Justice of the Supreme Court, ascended the bench, and the crier announced the

## OPENING OF THE COURT,

after which, the District Attorney having moved on the trial of John Reynolds for the willful murder of William Townsend, in the city of New York, on the 29th day of January, 1870, the prisoner, amidst breathless silence, was placed at the bar. The Jury was next duly empanelled, and the trial commenced.

## THE ASSIGNED COUNSEL.

Mr. William F. Howe, was assigned by the Court to defend the accused, and had evidently made extensive preparations to prove his client "*non compos*" at the time of the commission of the awful deed.

## OPENING REMARKS OF DISTRICT ATTORNEY.

District Attorney, the Honorable Samuel B. Garvin, opened the case, and said:

*Gentlemen of the Jury:* This is an indictment presented by the grand inquest of the City and County of New York, against John Reynolds,

charging him with the high crime of murder—the highest crime known to our laws; and the examination of this case should not only involve your patience and your judgment, but it will involve, for time and eternity, the interest of the individual who is on trial before you.

The crime with which he stands charged to-day, was committed under circumstances of great atrocity; so much so, that the whole public were not only amazed, but astounded, at the manner in which this crime was committed.

We have been, from day to day, from week to week, and month to month, in this community, astonished by the character of the crime which pervades not only this city but neighboring cities. It seems to be spreading all over the country, so that crime at this juncture of our history seems to be almost epidemic everywhere. A man can hardly walk along the street; he can hardly go to bed in his farm-house in the country; he cannot go to his home in the city, without being assaulted either in the form of murder, or with an attempt to rob, and take from his person everything he has.

Now, gentlemen, I only glance at this condition of things for the purpose of impressing upon you the importance of giving this case your careful and candid consideration; and, gentlemen, when we get through with this case, if you are satisfied that this is a case of murder, I ask you, by all the holy ties which bind you, that you will give a verdict in accordance with the evidence in this case, and show by your verdict, that when murder is committed in the city of New York, it will be surely punished by the jury.

No matter how much courts may do, or how much the prosecuting officer may do, or how often we summon witnesses into the courts of justice, or how fairly and freely they testify, it all comes down in the end to a jury of twelve men. Unless the public assist, it is impossible to administer justice.

Now gentlemen, in this case, I shall be able to show you, as I am instructed by the witnesses I shall call to the stand, that, on the 29th of January, 1870, this man, Mr. Townsend, was sitting in his own house, sitting there as he had a right to do on his own premises; and without any sort of provocation on his part, directly or indirectly, this poor miserable man came into his room, sat down in his premises, and refuses to go out after he was told that there was no room for him; and Townsend, gently laying his hand on his shoulder, said, "you must go away, I havn't room here for my own family," and instantly, before Townsend could say another word, he took a knife from his pocket, and plunged it into Townsend's breast, from the effects of which he died in the space of about 20 minutes.

Now gentlemen, if I give you this state of facts, and if you see no reason to doubt the statement of the witnesses, I shall ask you for a verdict of *murder in the first degree.* I do not now propose to dwell upon this state of facts, or to discuss the question of law, but I will have you go through the case with the evidence in regard to this transaction, and let the evidence itself make such an impression on your minds as to what your duty commands you to perform.

## THE DAUGHTER OF THE MURDERED MAN.

*Lydia Townsend* was then called, and having been duly sworn, testified as follows:

*Q.* (*By the District Attorney.*) How old are you, Lydia? *A.* Thirteen years.

*Q.* When were you thirteen years old? *A.* The 10th of December.

*Q.* Have you any brothers and sisters? *A.* I have one brother.

*Q.* He is a child? *A.* Yes, sir.

*Q.* How old is your other sister? *A.* She is eleven.

*Q.* Where did you live in the latter part of January last?

*A.* I lived in 192 Hudson street.

*Q.* In the city of New York? *A.* Yes, sir.

*Q.* What was your father's name? *A.* William Townsend.

*Q.* What is your sister's name? *A.* Harriet.

*Q.* What do you call your little brother? *A.* Alfred.

*Q.* What was your father's business?

*A.* He was a tailor, and kept a grocery store.

*Q.* At his place in Hudson street? *A.* Yes, sir.

*Q.* Was it a basement? *A.* Yes, sir.

*Q.* How many steps did you have to go down to get into your father's grocery? *A.* About five.

*Q.* Do you remember the afternoon or evening of the 29th of January?

*A.* Yes, sir.

*Q.* Who was in your place at that time? *A.* About six o'clock, father, Harriet, the baby, and myself, were sitting in the place.

*Q.* Are those the only persons who were there? *A.* Yes, sir.

*Q.* Now will you tell whether you ever saw the prisoner there before that day? *A.* No, sir.

*Q.* About what time did he come there? *A.* About six o'clock.

*Q.* He came down into the basement. *A.* Yes, sir; right into the basement.

*Q.* Do you recollect whether he rapped? *A.* No, sir; he did not rap.

*Q.* He opened the door and came in without rapping. *A.* Yes, sir.

*Q.* Where was your father when he came in?

*A.* Sitting by the table.

*Q.* In the front room? *A.* No, sir; in the back room.

*Q.* Did you see him when he came into the door?

*A.* He walked right into the room, and sat down on a chair by the stove.

*Q.* In the back room? *A.* Yes, sir; where my father was.

*Q.* He sat down on a chair? *A.* Yes, sir.

*Q.* Now state what he said, if any thing?

## "YOU ARE MY BROTHER."

*A.* He said: "You know me, I am your brother; I want to stay here all night."

*Q.* State what else he said?

*A.* Father said, "No, sir; you are not my brother; and you cannot stay here all night."

*Q.* State what else he said?

*A.* Father said, "I haven't room in my place, and won't you please go

out?" and he went out and sat on a milk can, and father went out and laid his hand gently on him.

*Q.* He said, "you are not my brother, and will you please go out?"

*A.* Yes, sir.

*Q.* What did he do then?

*A.* He went out into the store and sat on a milk can.

*Q.* What did your father say?

*A.* My father said it was no use in sitting there, and said, "Come, good fellow, please go out."

*Q.* He laid his hand on his shoulder? *A.* Yes, sir.

*Q.* State what then occurred? *A.* He dragged him out on the steps.

*Q.* Dragged whom out? *A.* Father.

*Q.* The prisoner dragged your father out on the steps? *A.* Yes, sir.

*Q.* Did you see with what he stabbed your father? *A.* No, sir.

*Judge Ingraham.* Was it light or dark? *A.* It was just dusk.

*Q.* Was the store lit up? *A.* Yes, sir.

*Q.* Gas? *A.* No, sir.

*Q.* Lamps? *A.* Yes, sir.

*Q.* (*District Attorney.*) What occurred after he dragged him on the steps? *A.* I do not know, sir.

*Q.* Where did you go? *A.* I was sitting up stairs with the baby.

*Q.* Who else was present when this occurred?

*A.* Harriet, my sister.

*Q.* Any body else? *A.* No, sir.

*Q.* How long after that before you came down?

*Q.* I came down, and my father was dead.

*Q.* Where was he? *A.* In the back room.

*Q.* Where?

*A.* On the bed; after father was stabbed he came in and sat on a bench in the store.

*Q.* Did you see where he was cut? *A.* No, sir.

*Q.* Was it on the breast? *A.* Yes, sir.

*Q.* The left breast? *A.* Yes, sir.

*Q.* Was it bloody? *A.* Yes, sir.

*Q.* Then you went up stairs? Yes, sir.

*Q.* How long before you came down? *A.* About fifteen minutes.

*Q.* Now, at the time he dragged your father to the steps, did any men come there? *A.* Yes, sir.

*Q.* Did they take this man away,—just describe what you saw?

*A.* Some men came to take the man away from father.

*Q.* Did they take him away? *A.* I do not know, sir.

*Q.* When your father came in, you went up stairs? *A.* Yes, sir.

*Q.* Have you seen the prisoner since that time? *A.* Yes, sir.

*Q.* Do you see him here, now? *A.* Yes, sir.

(The witness here pointed to the prisoner.)

*Q.* Do you know how long your father lived after this occurrence?

*A.* Fifteen minutes.

*Q.* You left him sitting on the bench? *A.* Yes, sir.

*Q.* When you came down he was dead? *A.* Yes, sir.

*Cross-examined by Mr. W. F. Howe:*

*Q.* Did this man remain with your father after he was down on the steps? *A.* Yes, sir.

*Q.* That was after he had stabbed him? *A.* Yes, sir.

*Q.* He did not let go his hold of your father? *A.* No, sir.

*Q.* He continued to hold him? *A.* Yes, sir.

*Q.* For about how long? Do you remember? *A.* No, sir.

*Q.* Some little while, was it? *A.* Yes, sir.

*Q.* And then some men came and took him away? *A.* Yes, sir.

*Harriet Townsend* sworn and examined for the prosecution:

*Q.* (*By the District Attorney.*) How old are you, Harriet? *A.* Eleven years old.

*Q.* Where do you live now? *A.* 192 Hudson street.

*Q.* What was your father's name? *A.* William.

*Q.* Is your mother here? *A.* Yes, sir.

*Q.* Do you remember on the 29th of January last, anybody coming into your father's place? *A.* Yes, sir.

*Q.* Do you see him here now? *A.* Yes, sir.

*Q.* Where is he? *A.* There (pointing to the prisoner).

*Q.* When he came in what did he say or do—just go on and tell?

*A.* He came in, sat down on a chair, and father asked him what he wanted, and he said that he wanted to stay all night, and *he was my father's brother.*

*Q.* What else?

*A.* Father said, no, sir; he did not have room enough for his own family.

*Q.* What else?

*A.* My father asked him if he would not please go out, and he said no, that he wanted to stay there, and father said that he hadn't room enough for his own family. Then he got up and went out, and sat on a milk can in the store.

*Q.* That was the front room?

*A.* Yes, sir. Father told him that there was no use in sitting down, that he could not stay, and he put his hand gently on his shoulder, and asked him if he would not please go out. Then he got up and stabbed my father, and dragged him out on the steps.

*Q.* What next?

## THE KNIFE.

*A.* Then a man came up, and the prisoner had a knife in his hand, and the man tried to get the knife out of his hand, and he got it out of his hand, and took my father up, and took the man away. Then my father came in and sat down on a bench, and then he went back into the room and lay down on the bed, and told me to go and fetch my mother. Then when I came back my father was dead.

*Q.* Did you see the place where he stabbed your father?

*A.* Yes, sir; right here (pointing to her left breast).

*Cross-examined by Mr. W. F. Howe:*

*Q.* You saw this man stab your poor father?

*A.* Yes, sir; and he had an overcoat on him, and he had the knife in his hand, and he took his hand out to stab my father, and I went to take hold of my father's arm, and he (Reynolds) knocked me down.

*Q.* After he stabbed your father, did he not keep hold of the knife?

*A.* Yes, sir; and the people tried to take it away.

*Q.* He would not let the people take it away? *A.* No, sir.

*Q.* He clenched it tightly? *A.* Yes, sir.

*Q.* He held possession of it, and would not let the people take it away from him? *A.* Yes, sir.

*Q.* Did he struggle with the people, this man?

*A.* I think he was laying down when the men tried to get the knife out of his hand.

*Q.* He would not give it? *A.* No, sir; he held it so tightly.

*Q.* Did you hear what he said after he had stabbed your father.

*A.* No, sir.

## THE SHOEMAKER'S TESTIMONY.

*Thomas Hudson* sworn and examined for the prosecution.

*Q.* (*By the District Attorney.*) Will you state what you know about this case?

*A.* January the 29th, the prisoner came down into the basement where I was to work.

*Q.* What is your number? *A.* 188 Hudson street.

*Q.* City of New York? *A.* Yes, sir.

*Q.* What is your business? *A.* Shoemaker.

*Q.* Have you a shop there? *A.* Yes, sir.

*Q.* This prisoner you recognize as the man who came in there?

*A.* Yes, sir.

*Q.* About what time? *A.* Six o'clock.

*Q.* On the 29th of January? *A.* Yes, sir.

*Q.* Were you to work? *A.* Yes, sir.

*Q.* State what he did, if you please?

*A.* He came down into the basement, and opened the door and walked in, and he asked me to give him a job, and I told him I could not, because I was on the last job I had; and he sat down on the bench, and I asked him what kind of work he had been accustomed to, and he said, pegging. He said he was a Scotchman, and I said, "You have been in the country a long while;" and he said, yes; and for a good while he had been out of work, and hadn't a friend in the country; and he got up and bid me good-night and went out.

*Q.* How far is your place from Townsend's place?

*A.* The next basement but one on the same side of the street.

*Q.* When did you see him next? *A.* On Sunday, about two o'clock.

*Q.* Where? *A.* In the police station.

*Q.* Did you miss anything from your shop after he went out?

*A.* No, sir.

*Q.* Was anything missed from there?

## THE STOLEN WEAPON OF MURDER.

*A.* After Mr. Arnold came in he went to cut a parcel, and he missed his knife.

*Q.* What kind of a knife was it?

*A.* It was one with a red handle; it had been broken but was fixed again.

*Q.* It was your knife? *A.* Yes, sir.

*Cross-examined by Mr. W. F. Howe:*

*Q.* You never saw this man before that day? *A.* No, sir.

*Q.* What time in the day was it? *A.* Six o'clock in the evening.

*Q.* Did he talk rationally to you? *A.* Yes, sir; very quietly.

*Q.* He said the place of his nativity was Scotland? *A.* Yes, sir.

*Q.* He asked you for work? *A.* Yes, sir.

*Q.* How long did he remain in your premises?

*A.* About three or four minutes.

*Q.* He talked quietly during that time? *A.* Yes, sir.

*Q.* Did you notice anything peculiar about his appearance or language?

*A.* No, sir; but his face seemed to be somewhat scarred.

*Q.* That was the only peculiarity you noticed. *A.* Yes, sir; that is all.

*Q.* Do you remember the last words he spoke to you? *A.* Yes, sir.

*Q.* What were they? *A.* He said, "Good-night."

*Q.* Then left? *A.* Yes, sir. When he went out, I turned the key, because he was in drink, and I thought he might come back.

*Q.* Your place of business is situated how? *A.* It is in a basement.

*Q.* He had then to ascend how many steps to leave? *A.* About five or six.

*Q.* Did you watch him leave? *A.* Yes, sir.

*Q.* He went directly up the steps? *A.* Yes, sir.

*Q.* And away? *A.* Yes, sir.

*Thomas Arnold* sworn and examined for the prosecution:

*Q.* (*By District Attorney*). Where were you working about the 29th of January? *A.* 188 Hudson street.

*Q.* Did you sometimes go into the shop of the last witness?

*A.* Yes, sir; I work there; it is my place.

*Q.* Do you recollect going in there in the evening, about six or seven o'clock, and missing any property of yours?

*A.* I went out just before six o'clock to a finding store in Greenwich street, and I think I was gone about a quarter of an hour, and when I came back the door was locked, and I said to my workman, "What have you the door locked for? and he told me that he had a customer there that he did not much like from his appearance. He said that he bolted the door so that he should not come back; and I then sat down and was about to cut a parcel which I bought—and previous to that, when I was going up, I heard there was a man stabbed, but I did not know who it was, and did not ask—and I missed the knife, and asked him if he knew anything about it, and he said "No;" and he said this man (Reynolds) had sat in my seat; and I looked again, but could not find it any where; and I said, "Surely, he has not stolen my knife." So I could not find my knife, and when I made inquiries I found it was gone.

*Q.* Do you see the knife?
*A.* Yes, sir; I see it now. (The witness was shown it.)
*Q.* Is that your knife? *A.* Yes, sir.
*Q.* How was it when you left it?
*A.* It was fastened with a piece on it.
*Q.* When you saw it again it was broken? *A.* Yes, sir.
*Q.* Where did you first see it after it was taken?
*A.* I saw it in the police station.
*Q.* Was it there in your shop when you went out to the finding store?
*A.* Yes, sir; it was on my bench.
*Q.* When you came back it was gone? *A.* Yes, sir.

(No questions by Mr. Howe.)

*Thomas J. Belcher* sworn and examined for the prosecution:

*Q.* (*By the District Attorney.*) Where do you reside?
*A.* 66 Varick street.
*Q.* Did you reside there on the 29th of January last? *A.* No, sir.
*Q.* Where then? *A.* 189 Hudson street.
*Q.* State what you first saw of this?
*A.* I heard a distressing cry opposite 189 Hudson street, and I thought some one was run over; and I went out of the house, and there was a car going along, and I looked across the street and saw a scuffle going on, and I went across; and as I was putting my foot on the curbstone I saw Townsend on the prisoner.

## THE MURDERER CAUGHT.

As I got up to him the prisoner freed himself from Townsend, and then I caught him.
*Q.* You caught the prisoner? *A.* Yes, sir.
*Q.* Is this the man? (pointing to Reynolds).
*A.* I did not know him at all; I saw him at the coroner's inquest.
*Q.* State what further happened. You say that he freed himself from Townsend?

## THIS MAN STABBED ME.

*A.* Yes, sir; and I asked what was the matter, and he said "This man stabbed me," and he opened his shirt, and he was all covered with blood; and he (Townsend) asked me if I could hold him (Reynolds), and I said I could, and the prisoner then made an attempt to get away, and he said: "If you will give me a sight, I can lick two like you."
*Q.* What else was said or done?
*A.* He tried to get away from me, and he struck me twice on the shoulder.
*Q.* Twice, you say?
*A.* Yes, sir; twice on the left shoulder. Then I threw him, and we fell on the sidewalk together, and I held him there till the officer came.
*Q.* State in what condition he (Townsend) was in?
*A.* I went to Townsend and asked him was he hurt much, and he said he was; and one of the officers came along and wanted him to make a charge against the prisoner, and Townsend said he was not able to go around to the station-house; and he picked up a piece of the knife and he said, "That is a piece of the knife that he stabbed me with."

*Q.* Townsend picked up the piece of the knife? *A.* Yes, sir.

*Q.* Was it anything like this? (pointing to the knife). *A.* Yes, sir.

*Q.* Was it the *piece* or the *knife* he picked up? *A.* It was the blade.

*Q.* Do you know whether any one in the meantime took the knife from him (Reynolds)? *A.* I did not know it until afterward.

*Q.* You do not know who did that? *A.* No, sir.

*Q.* What was then done?

*A.* He (Townsend) went into the back room and lay down, and I gave him a drink of water, and his legs and feet were hanging on the floor; and I leaned against him, and he said that I hurt him.

While I tried to open his shirt to see the wound, he said I hurt him.

(Mr. W. F. Howe here objected to witness testifying to his conversation with the deceased. Objection overruled and exception taken.)

*Q.* Go on and state what he said?

## DEATH OF MR. TOWNSEND.

*A.* He said, "My God, I am suffocating! Give me air." I think those were the last words he said.

*Q.* How long was it before he died?

*A.* From the time I left the street till I got into the basement, I think it was about six minutes.

*Q.* This was 192 Hudson street? *A.* Yes, sir.

*Q.* What was Mr. Townsend's business? *A.* Grocer.

*Q.* How long had he been there? *A.* I do not know, sir.

*Cross-examined by Mr. W. F. Howe:*

## VIOLENCE OF THE PRISONER.

*Q.* You say the prisoner resisted you very violently? *A.* Yes, sir.

*Q.* Did you hear him say anything? *A.* Yes, sir.

*Q.* How long did it take you to overcome him?

*A.* About two or three minutes, I suppose.

*Q.* Did he offer you any violence? *A.* He did.

*Q.* You had to overcome that by violence yourself?

*A.* Yes, sir; I had to throw him to keep him.

*Q.* Had he the knife in his hand at the time?

*A.* No, sir; I did not see it with him.

*Q.* Did you see Mr. Kline there?

*A.* Mr. Kline was there; there were two gentlemen there before I went.

*Q.* The prisoner was quite frenzied? Yes, sir.

## WAS HE FRENZIED?

*Judge Ingraham.* What do you mean by *frenzied?*

*A.* I thought the counsel meant rough.

*Mr. Howe.* Was he violent? *A.* He was.

*Q.* Was he rough? *A.* Yes, sir.

*Q.* Was he wild?

*A.* He was about as wild as any criminal could be.

*Q.* Have you ever seen any criminals in a wild state? (Laughter.)

*A.* Yes, sir; I have seen the prisoner quite wild.

*Q.* Didn't this man attack you? Haven't you said so?
*A.* Yes, sir; while I had hold of him.
*Q.* Did he speak to you? *A.* He did.
*Q.* What did he say?

## SHOW ME A SIGHT.

*A.* He said, "Show me a sight you son of a ——, and I will lick two like you."
*Q.* Did he threaten to kill you? *A.* He did not.
*Q.* When you overpowered him, to whom did you consign him?
*A.* To the officers; a sergeant and a roundsman.
*Q.* Was his appearance anything but that of a wild man, as you stated at the time?
*A.* I could not say; it was dark, and under the excitement I did not know him in half an hour after that time.
*Q.* Since you have told us that he was *rough* and *wild*, will you tell us if you noticed anything else about his appearance?
*A.* I thought he had been drinking.
*Q.* That was but a thought? *A.* Yes, sir.
*Q.* Did he act like a sane man? *A.* Yes, sir; I think he was sane.
*Q.* I did not ask you that. I asked you how did he act?
*A.* Well, he acted in a violent degree.

*John Scully* sworn and examined for the prosecution:

*Q.* (*By the District Attorney.*) Where do you live?
*A.* 27 Bethune street.
*Q.* Were you in the neighborhood of 192 Hudson street on the 29th of January?
*A.* Yes, sir.
*Q.* What were you doing over there? *A.* I was going for my wife.
*Q.* State what attracted your attention, and what you saw?
*A.* I was passing up and saw two men in contact with each other at 192 Hudson street, and I saw Mr. Townsend having hold of the prisoner in the scuffle, and some persons came up and asked what was the matter, and Mr. Townsend said—

## THE FATAL BLOW.

"This man is after stabbing me." Some one then took a knife out of his (Reynolds') hand.
*Q.* Do you recollect how the knife looked? *A.* Yes, sir.
*Q.* Perfect or broken?
*A.* Broken; it was broken when I took it out of his hand.
*Q.* What kind of a knife was it?
*A.* It was a round handled knife, and over an inch long.
*Q.* Did you see the knife afterward? *A.* Yes, sir.
*Q.* Is that it? (The knife was here shown to witness.)
*A.* Yes, sir; and some one sang out and asked what was the matter, and Mr. Townsend made the reply and said, that man (R.) was after stabbing him, and then an officer came up and got hold of the prisoner, and I gave part of the knife to one of the officers, and he took it to the station

house, and I went to the station-house and gave evidence, and I had to come back that way to go home, and on my way back, I found that Mr. Townsend was dead.

*Q.* He died on his bed in his own house. *A.* Yes, sir.

*Judge Ingraham.* Where was this scuffle?

*A.* About two or three steps down from the sidewalk.

*Cross-examined by Mr. Howe:*

*Q.* This prisoner held the knife very tightly in his grasp, did he not.

*Q.* Yes, sir.

*A.* And when you tried to take it from him he resisted? *A.* Yes, sir.

*Q.* Held it with tenacity? *A.* Yes, sir.

*Q.* That was some time after the unfortunate deceased had been stabbed. *A.* Yes, sir; some minutes.

*Q.* (*District Attorney.*) Do you see the prisoner here now?

*A.* Yes, sir.

*William Walsh* sworn and examined for the prosecution:

*Q.* (*By District Attorney.*) Were you present when this transaction took place? *A.* Yes, sir.

*Q.* Where were you? *A.* I was at 202 Hudson street.

*Q.* What attracted your attention to this thing first?

*A.* I heard some screaming, and I ran to the place, and I saw Mr. Townsend on the two upper steps, and Reynolds was lying on his back and Townsend on top of him, and two other citizens were there at the time, and I saw them struggling, and I did not know what was the matter at the time; and I caught hold of Reynolds by the collar and looked in his face, and I said "What are you holding on to him for," and I said "get up off him;" and I had hold of him by the collar, and he got up the two steps, and I got the prisoner up on the top of the steps; and Townsend said, "My God, that fellow has stabbed me and I don't know what for;" and I saw the blood on the vest of Mr. Townsend, and I said "Oh, God, you are stabbed to the heart," and he said "Is there no one to do anything for me?" and I went to get hold of the prisoner, and two other citizens had him, and I held on to him, and two officers came across, and I attracted their attention, and they came and threw him down, and I helped them to take him to the station-house, and I took hold of his legs, and he cursed several times, and asked for a fair show on the way down. When I got back to the store I saw the man was dead.

*Q.* When you got back to his (Townsend's) house you found him dead. *A.* Yes, sir.

*Q.* Did you see any more wounds than the one on his breast?

*A.* Some one passed the remark that he had a cut on his arm.

*Q.* You did not notice that yourself? *A.* No, sir.

*Q.* How long were you down to the station-house?

*A.* About fifteen minutes.

*Q.* He died then in about twenty minutes afterward?

*A.* Yes, sir, less time than that.

*Cross-examined by Mr. Howe:*

*Q.* The prisoner did not say anything about having stabbed the deceased. *A.* No, sir; he did not.

*Q.* Was not this prisoner quite frenzied at the time?

*A.* Well, sir; he acted like a rough.

*Q.* Where did you see roughs act?

*A.* I see them when they commit things out of the way and against the law; that is what I term a rough—I mean a man that don't do justice.

*Q.* That is your definition of a rough? *A.* Yes, sir.

*Q.* What injustice did you see this man do?

*A.* I saw Mr. Townsend and him fighting on the steps, or tussling on the steps; I saw them holding on or clenching each other on the steps.

*Q.* From that you call him a rough? *A.* Yes, sir.

*Q.* Was his manner peaceable, or was it wild?

## THE MURDERER WILD.

*A.* Well, sir; it seemed to be wild.

*Q.* Did he try to assault you? *A.* He tried to get away from me, sir.

*Q.* That is not an answer to my question; did he try to assault you?

*A.* Yes, sir.

*Q.* Had he the knife in his hand then? *A.* I do not know, sir.

*Q.* Did you see him delivered to the police officers?

*A.* Yes, sir; I helped to take him to the station-house.

*Q.* Did he talk going along to the station-house? *A.* Yes, sir.

*Q.* What did he say?

*A.* He made several attempts to get away from us; he asked for a fair show.

*Q.* What else?

*A.* He called the officers, and us who were with them, sons of ———

*Q.* Are you as sure of that as anything else you have sworn to?

*A.* Yes, sir.

*Q.* Are you sure he applied that epithet to the officer?

*A.* Yes, sir; to the officer, to me, and another man.

*Q.* Did you say that before the coroner?

*A.* I am not quite sure; I believe I did say so, or something to that effect; no, sir; I did not!

*Q.* Did he talk wildly and incoherently?

*A.* He talked savagely to get away.

*Q.* Did he walk?

*A.* We carried him down as far as Laight street, and I got his legs up in my arms, and we dragged his feet out of his boots, and we finally dropped him on his feet, and he walked from that down to the station-house.

*A.* He resisted all the time? *A.* Yes, sir; several times.

*Q.* Did you see him put in the cell?

*A.* No, sir; but I stood while the charge was being taken against him, and saw the officers taking him away.

*Q.* When he was taken to the station-house, did they place him against the railing immediately in front of the captain's desk? *A.* They did, sir.

*Q.* Did the prisoner stand in front of that railing? *A.* Yes, sir.

*Q.* Alone? *A.* Yes, sir.

*Q.* Did you see the police sergeant behind the desk? *A.* Yes, sir.

*Q.* Did the police sergeant ask the prisoner his name? *A.* Yes, sir.

*Q.* Did he give it? *A.* Yes, sir; Jack Reynolds.

*Q.* Did the sergeant ask him where he was born? *A.* Yes, sir.

*Q.* What reply did he make? *A.* United States.

*Q.* Was his age asked?

*A.* I believe it was, sir; but I was in conversation with the officers at the time.

*Q.* You did not hear a reply to that? No, sir.

*Q.* Did the sergeant apprise him of the charge made against him?

*A.* I did not hear that, sir.

*Q.* Was that all the conversation which transpired?

*A.* He asked him what his occupation was.

*Q.* What did he say? *A.* He said—a thief.

"I AM A THIEF!!!"

*Q.* Did you say that before the coroner?

*A.* No, sir; I was not asked that, sir.

*Q.* This is the first time you have said that, is it? *A.* Yes, sir.

*Q.* Well, after he told the sergeant he was a thief, as you say, did they take him down stairs?

*A.* Well, sir, when all was taken, the sergeant said, "That will do," and he told the officers to search him, and they did, and I saw the officers take him away.

*Q.* (*By the District Attorney.*) Have you given us all the conversation or remarks you heard made by the prisoner from the time you arrested him till you left him in the station-house? *A.* Yes, sir.

*Q.* You have given all that he said? *A.* Yes, sir.

*Q.* He was carried part of the way, and walked the rest. Is that all that you remember him doing?

*A.* I recollect his struggling with Mr. Townsend.

*Q.* Anything else? *A.* Well, I believe that I stated all that I know.

*Q.* Do you recognize this prisoner as the same man? *A.* Yes, sir.

*Q.* He is the man? *A.* Yes, sir.

*Q.* He was dressed then as now?

*A.* About the same, I guess; he had a hat, and his boots dropped off him. I think he has a better pair of pants now than he had then.

*Peter Kline* sworn and examined:

*Q.* (*By the District Attorney.*) Where do you live? *A.* Jersey City.

*Q.* Were you in the neighborhood of 192 Hudson street on the 29th of last January? Yes, sir.

*Q.* How came you there? *A.* I was on my way home.

*Q.* What attracted your attention to this particular thing?

*A.* I heard a little girl crying murder.

*Q.* When you got over there, what was the first thing you saw?

*A.* I saw Mr. Townsend and a man struggling.

*Q.* Where? *A.* On the steps of the basement, leading into the store.

*Q.* What kind of a struggle was it? *A.* Mr. Townsend was on top.

*Q.* What else did you see? *A.* I saw the prisoner underneath him.

*Q.* Did he have anything in his hand? *A.* He did.

*Q.* State what? *A.* It was something like a knife.

*Q.* State what was said or done.

*A.* The little girl said: "He stabbed my father; and see, he has a

knife in his hand," and I grabbed his wrist and held his hand down to the ground.

*Q.* Was the knife like that. (The knife in question was shown to the witness.) *A.* Yes, sir; similar to that; the blade was very short.

*Q.* Now state what you did after that?

*A.* I seized his wrist, and held it firmly to the ground, and shouted "police," and a man named Scully came up, and I explained the circumstances to him, and I told him to take the knife from the prisoner's hand.

*Q.* Where did the deceased go to then? *A.* He rose up, and I saw him afterward in the house, and the prisoner lay still for about a moment, then jumped up and undertook to run away, and I grabbed him.

*Q.* What followed? *A.* He was taken to the station-house.

*Q.* Did you see Mr. Townsend in the bed?

## "AGONY OF THE CHILDREN."

*A.* No, sir; the children were crying, and I thought there was enough in the room without me going in. I understood that the doctor had been sent for, and I went in about five minutes after, and found Mr. Townsend dead.

*Q.* He was lying in the bed? *A.* Yes, sir.

*Q.* Did you observe at the time whether the prisoner was intoxicated or not?

*A.* I did not; he did not appear so; he jumped up too soon, I think, for a drunken man.

*Q.* Do you recognize the prisoner now?

*A.* I do not; it was after dark, and I was paying attention to the hand the knife was in, and in the scuffle I did not pay much attention to him; I judged from his size that he was not much taller than myself, when he got up.

*Cross-examined by Mr. W. F. Howe:*

*Q.* You say that Mr. Scully and yourself took the knife from his grasp?

*A.* Yes, sir.

*Q.* That was some minutes after the deceased had been stabbed?

*A.* I do not know how many minutes; the deceased himself showed me where he had been stabbed.

## THE KNIFE TIGHTLY GRASPED.

*Q.* The prisoner held the knife with a tight grasp, did he not? *A.* Yes, sir.

*Q.* I presume so much so, that you had to exert yourself to get it from him? *A.* Yes, sir.

*Q.* His mouth was close to you? *A.* Yes, sir; not very close.

## NO LIQUOR.

*Q.* You say there was no perceptible smell of liquor upon him? No, sir.

*Q.* Nor were his actions those of a drunken man? *A.* He did not appear so the time he jumped up.

## THE POLICE SERGEANT.

*Matthew Tuck* sworn and examined for the prosecution:

*Q.* (*By the District Attorney.*) You are a police officer? *A.* Yes, sir.

*Q.* Were you so on the 29th of January last? *A.* Yes, sir.

*Q.* How long have you been on the force? *A.* Four years.

*Q.* State what attracted your attention to this place, and what you saw and heard?

*A.* A few minutes after 6 o'clock, on the 29th of January, I was standing in Hudson street, nearly opposite 192, and I heard the cry of a man being stabbed, and I went across the street and saw a crowd there; and I saw Mr. Townsend standing there, bleeding very much from the breast, and some one in the crowd said, "This is the man." I then followed Reynolds, who was at this time struggling to get away, and he said to me, "Give me a fair show," and I conveyed him to the station-house. On the road he acted violently, and some one said, "Hang him!" They proposed to hang him right there, and he made the remark, "Hanging is played out! Hanging is played out!" I took him to the station-house, and afterward returned, and saw Townsend laying dead on his bed.

*Q.* Is this the man you took to the station-house? *A.* Yes, sir.

*Q.* Where were the wounds? *A.* About three inches above the nipple of the left breast.

*Q.* Any other wound? *A.* I did not see any other, except small scratches on his face.

*Cross-examined by Mr. W. F. Howe:*

*Q.* Did you notice the appearance of the prisoner at the time you arrested him? *A.* I did, sir.

*Q.* Does he not look quite respectable to-day, to what he did then?

*A.* Yes, sir. He was all dirt, on account of his having been on the ground before I got there.

*Judge Ingraham.* Was he in liquor? *A.* I think he was under the influence of liquor.

*Mr. Howe.* Sergeant, you were in the 16th N. Y. Cavalry, I believe?

*A.* Yes, sir.

*Q.* Did you ever know any of your men to have epileptic fits?

*A.* No, sir; not while I was in the 16th.

*Q.* Whilst you were in any other company or corps? *A.* No, sir.

*Q.* Did you ever see a man with an epileptic fit in your life?

*A.* Yes, sir.

*Q.* Was this man peculiarly wild?

*A.* Well, he looked and acted like a man who was trying to make his escape.

*Q.* Does a man who is trying to get away, present any different appearance to any other man? *A.* When a man gets excited, he has a different appearance.

## RATHER EXCITED.

*Q.* Then this prisoner was excited?

*A.* Yes, sir; I guess he was, rather.

*Q.* Now sergeant, when you say "RATHER" excited, you mean very greatly excited.

*A.* Yes, sir ; he looked like a man who was trying to free himself.

*Q.* Didn't he look as if he was very much excited ?

*A.* Well, he did.

*Q.* He talked incoherently ?

*A.* I did not hear him speak only twice.

*Q.* Weren't you with that witness who said that he called you and him opprobrious names ?

*A.* Once he said "Give me a fair show," and next, "Hanging is ayed out."

*Q.* You didn't hear him, on the way to the station-house, call you those names the other witness mentioned ? *A.* No, sir.

*Q.* In the station-house, was he placed before the railing in front of the sergeant's desk ? *A.* Yes, sir.

*Q.* And interrogated in the usual manner ? *A.* Yes, sir.

*Q.* Were the questions propounded by yourself ?

*A.* No, sir ; by another sergeant.

*Q.* Did you hear him answer the questions ?

*A.* Yes, sir ; some of them.

*Q.* In what manner did he answer them ?

*A.* I heard him say, when the sergeant asked him what he did for a living ; he said he was was a thief.

*Q.* Any more than that ? *A.* He gave his name.

*Q.* What name ? *A.* Jack Reynolds.

*Q.* Was he asked for his residence ?

*A.* I did not hear that part of it.

*Q.* That is usual, is it not ?

*A.* The sergeant behind the desk generally pays more attention to that.

*Q.* Is that sergeant here ? *A.* I do not see him.

*Q.* You do not know whether he said he had a residence, or not ?

*A.* No, sir.

*Q.* Now, how long was he, what period of time was he, before that desk ? *A.* I should say three, or four, or five minutes.

*Q.* He stood up in front of the railing there ? *A.* Yes, sir.

*Q.* He was not held up ? *A.* No, sir.

*Q.* You mean by that, that he was sober.

*A.* A man may stand up, and yet be drunk. He was slightly under the influence of liquor, as I heretofore stated.

## SLIGHTLY UNDER THE INFLUENCE OF LIQUOR.

*Q.* Others differ with you ? *A.* I speak from my own knowledge.

*Q.* Was he in that condition, that if you had met him in the street, you would have arrested him as a drunken man ?

*A.* No, sir ; I would not.

*Q.* Then he was not what you call drunk ?

*A.* Not helplessly drunk. He was under the influence of liquor.

*Q.* You said, before the coroner, slightly ? *A.* Yes, sir.

*Q.* You differ with the last witness ?

*A.* I did not pay any attention to it.

*Q.* You didn't smell any liquor upon him ? *A.* I did.

*Q.* Could you tell what liquor it was?

*A.* Well, I could not. I smelled something like whiskey. I went down to the cell afterward, and smelt it on him.

*Q.* You say it was like whiskey?

*A.* I know the smell of whiskey. (Laughter.)

*Q.* Did you see the knife in this man's hand? *A.* I did not.

*Q.* Was he violent in the station-house? *A.* No, sir.

*Q.* Quiet? *A.* Yes, sir.

*Q.* Quite tractable and quiet in the station-house? *A.* Yes, sir.

*Q.* Going along very wild? *A.* Yes, sir; he was, at first.

*Q.* He was put into a cell in the station-house? *A.* Yes, sir.

*Q.* What time? *A.* I think about 15 or 20 minutes after 6.

*Q.* Was he visited by any of your officers?

*A.* He was visited by me.

*Q.* Did you find him asleep? *A.* No, sir.

## THE MURDERER SLEEPS.

*Q.* What time did he go to sleep?

*A.* I can't tell what time he went to sleep.

*Q.* What was the last time you saw him that night?

*A.* About an hour after he was locked up.

*Q.* Was that the last time you saw him?

*A.* That was the last time I believe that I saw him that night.

*Q.* Did you see him in the morning? *A.* Yes, sir.

*Q.* Was he awake then? *A.* Yes, sir; he was.

*Q.* Do you know what officer visited him during the night?

*A.* I do not; the doorman is instructed to look after them.

*Q.* Do you know what officer awoke him from his sleep? *A.* No, sir.

*Q.* (*By the District Attorney.*) You said he was quite wild?

*A.* Yes, sir.

*Q.* You mean that he attempted to get away? *A.* Yes, sir.

*Q.* That is what you mean by calling him wild? *A.* Yes, sir.

*Q.* (*Mr. Howe.*) He struggled and hit out? *A.* Yes, sir; he did.

*Frank W. Robb* sworn and examined for the prosecution:

*Q.* (*By the District Attorney.*) How long have you been connected with the Police Department? *A.* Three years.

*Q.* Were you present at any part of this affair?

*A.* I came up when they had hold of the prisoner on the sidewalk in front of the place where this affair occurred.

*Q.* Did you see the knife? *A.* Yes, sir.

*Q.* Did any one hand it to you? *A.* Mr. Scully handed it to me.

*Q.* It was a knife like this?

(The witness was here shown the knife in question.)

*A.* Yes, sir.

*Q.* Is that the knife? *A.* Yes, sir.

*Q.* Did you take the knife to the station-house? *A.* Yes, sir.

*Q.* (*Mr. Howe.*) Did you take this man to the cell? *A.* No, sir.

## THE UNFORTUNATE WIDOW.

*Mary Townsend* sworn and examined for the prosecution:

*Q.* (*By District Attorney.*) What was your husband's name?

*A.* William Townsend.

*Q.* Where did he reside? *A.* 192 Hudson street.

*Q.* Were you home on the occasion of this occurrence? *A.* No, sir.

*Q.* Where were you? *A.* I was down to Mr. Taylor's, the baker.

*Q.* What was the condition of your husband when you went away?

*A.* He was in perfect health, playing with the children.

*Q.* How old a man was he? *A.* Fifty-five years of age.

*Q.* Those two little girls who were on the stand are your children?

*A.* Yes, sir.

*Q.* This little one is yours? (pointing to a babe). *A.* Yes, sir.

*Q.* When you came back, in what condition did you find him.

*A.* I found him dead. (Sensation in court.)

*Q.* How long had you been gone? *A.* Not more than ten minutes.

*Q.* Did you see this prisoner? *A.* Yes, sir; at the inquest.

*Q.* Did you ever see him in your house before? *A.* No, sir.

*Q.* Do you know of your husband being acquainted with him.

*A.* No, sir.

*Q.* Do you know your husband's relatives?

*A.* Yes, sir; but he has none in this country.

*Q.* Did you ever have any acquaintance with this prisoner in any way?

*A.* No, sir.

*Q.* Never saw him before? *A.* No, sir.

(Mr. Howe said he would not ask this witness any questions.)

*Dr. William Shine*, sworn and examined for the prosecution:

*Q.* (*By District Attorney.*) Did you make a post-mortem examination of William Townsend on that evening?

*A.* The day following, sir.

*Q.* What time in the day did you make it? *A.* Eleven o'clock.

*Q.* Where? *A.* At his residence, 192 Hudson street.

*Q.* State to the jury what you found? *A.* I found a stab wound, penetrating the walls of the chest, traceable from the chest. I found that the heart had been penetrated, and the knife entered into the substance of the heart.

There was a second wound on the back of the left hand, half an inch in depth.

The third was a slight wound in the neck, and the wound in the breast was the cause of death.

*Q.* The stab was in the left breast? *A.* Yes, sir.

(No questions by Mr. Howe.)

The District Attorney said: If your Honor please the prosecution is closed and we rest our case.

*Judge Ingraham to Mr. Howe.* Mr. Howe you will proceed with the defense.

## OPENING OF THE DEFENSE.

*Mr. Howe.* If your honor pleases, I do not propose to make any formal opening, but I shall call my witnesses and then address the jury.

Mr. Howe then called to the witness-stand, *Captain Jeremiah Petty*, who was then sworn and examined for the defense by Mr. Howe:

*Q.* You are Captain of the 5th Precinct Metropolitan Police?

*A.* I am, sir.

*Q.* It was your station-house to which this prisoner was brought?

*A.* Yes, sir.

*Q.* You visited him in the cell, did you not? *A.* Yes, sir.

*Q.* About what time of night was that?

*A.* It was between eleven and half-past eleven.

*Q.* The cell door was locked? *A.* It was.

*Q.* And the prisoner was then asleep?

*A.* He was laying on the bunk, apparently asleep.

*Q.* You were accompanied by another person, weren't you?

*A.* Yes, sir.

*Q.* Do you know how long he had been asleep. *A.* I do not, sir.

*Q.* You shook him and woke him? *A.* Yes, sir.

## THE PHYSICIANS' TESTIMONY.

*Dr. William A. Hammond* sworn and examined by Mr. W. F. Howe:

*Q.* Dr. Hammond, you are a physician? *A.* Yes, sir.

*Q.* Professor?

*A.* Professor of diseases of the brain and nervous system, in the Bellevue Medical College. I pay especial attention to diseases of the nervous system.

*Q.* Doctor, at the request of the District Attorney of this county, did you examine the physical organization of this prisoner?

*A.* I have examined him twice. I examined him on Sunday, the 6th of February, and yesterday.

*Q* Now, sir, in reference to the organization of his skull, did you find any peculiarity about the frontal eminence?

*A.* I found the left frontal eminence rather more depressed than the right, or the right is more prominent than the left, but not very great.

*Q.* That is a peculiarity?

## AN UNSYMMETRICAL SKULL.

*A.* It is an "*unsymmetrical skull*," as we call it.

*Q.* Is that a malformation in a physical sense? *A.* Yes, sir.

*Q.* Doctor, you have made, as you have said, insanity and diseases of the mind a study, an especial study? *A.* Yes, sir; for a number of years.

## MEDICAL WORKS.

*Q.* Will you tell me if you esteem Taylor a good authority on that?

*A.* Upon the subject of insanity?

*Q.* Upon psychology, upon the mind?

*A.* He is an authority, but he is not one of the best.

*Q.* You say he is an authority?

*A.* Yes, sir; he is an authority, particularly upon general medical jurisprudence.

*Q.* But it embraces that to which I have referred? *A.* Yes, sir.

*Q.* Now, as to Ray; do you not esteem him as one of the best?

*A.* Yes, sir; one of the very best.

*Q.* Maudesley? *A.* Equal with Ray; equally as good, if not better.

*Q.* Dean? *A.* I do not think he knows much about it.

*Q.* Trosseau, an eminent French author?

*A.* He is an excellent authority upon general medicine, and upon general diseases of the nervous system, but as regards general insanity, he is not an authority.

*Q.* How is he in regard to general epilepsy?

*A.* Yes, sir; he is good authority.

*Q.* Esquirol?

*A.* He is equally as good: he is better on insanity.

*Q.* Do you remember Dr. Gilman? *A.* Yes, sir; very well.

*Q.* You had the pleasure of his acquaintance, Doctor, didn't you?

*A.* Yes, sir.

*Q.* You esteem him as a very excellent authority? *Q.* Yes, sir; and a good practical man in regard to diseases of the brain while he lived; but I should not regard Dr. Gilman as a first-class authority on that subject.

*Q.* He was a good practical observer? *A.* Yes, sir.

*Q.* He had great experience? *A.* Yes, sir.

*Q.* Doctor, is not the human mind at present a very great study, and subject of inquiry? Yes, sir.

*Q.* In this country and through Europe generally? *A.* Yes, sir.

*Q.* Now, Doctor, are there not new causes of insanity, that is, new discoveries of causes of insanity being continually manifested?

*A.* There are new circumstances, owing to the advancement of civilization and of science, but the general state of facts are the same.

*Q.* Where there are no signs of degeneracy, is there still room for causes of physical defect, without science being able to recognize them in every instance?

*A.* Do you mean by that, sir, that if a man is insane and dies, that a *post mortem* examination will not reveal the cause of it?

*Q.* No, sir, precisely the opposite. I mean, that during life may not these signs exist without your being able to recognize them?

*A.* I think not. I think that with sufficient opportunity, I could tell whether a man was insane or not.

*Q.* You would not consider two visits sufficient opportunity? Would not a patient require watching for a considerable period?

*A.* That would depend on the nature; I might detect it in three minutes.

INSANITY MIGHT EXIST.

*Q.* And yet insanity might exist, and escape detection by you, in one, two, or three examinations?

*A.* Yes, sir. (Sensation in court.)

*Q.* If the cells of a man's brains, at the end of a day of great mental activity, and at the beginning of the day after a good night's rest, were examined, there would not be any difference detectable, would there?

*A.* Yes, sir; I think the difference would be detectable, probably not so far as structure is concerned, but certainly so far as analysis of the brain matter is concerned, it could.

*Q.* You could tell whether it suffered great waste or not?

*A.* That would be by an examination.

*Q.* Of course that would only take place after death? *A.* Yes, sir.

*Q.* And by chemical means? *A.* Yes, sir.

*Q.* Doctor, what is the meaning of the term "Anæmia?"

*A.* It means deficiency of blood. It refers to deficiency in quality as well as quantity.

*Q.* A tumor or abscess of the brain may in no way interfere with the mental operations at one time, whilst at another it may produce the greatest disorder of them; is that correct? *A.* Yes, sir.

*Q.* In the case of an abscess of the brain, do not symptoms of mental derangement often entirely disappear for a time, and then suddenly return with greater activity? *A.* Yes, sir; I think so.

*Q.* Between the extremest cases of madness, therefore, and the highest level of mental soundness, there will be infinite varieties shading, insensibly, one into another, so that no man will be able to say positively where sanity ends, and where insanity begins; or to determine whether a particular person is insane or not. Is that correct?

*A.* With certain limitations, I think it is. I think the variations would be as great between any number of cases of insanity as between any number of cases of health of mind.

## THE LINE BETWEEN SANITY AND INSANITY CANNOT BE DRAWN.

*Judge Ingraham* (to Dr. Hammond). Do you mean by that, Doctor, that the line is not very great between sanity and insanity?

*Dr. Hammond.* Yes, sir; still I think it can be drawn.

*Mr. Howe.* Doctor, what is epilepsy? please describe.

*A.* It is a disease which is characterized by a loss of consciousness, and involuntary action. It is known ordinarily, as the "falling sickness."

*Q.* In Trousseau, what does he term it?

*A.* I do not know the secondary name he gives it.

*Q.* Have you had experience with many who have been subject to epilepsy? *A.* I have treated several.

*Q.* Will you tell us what has been your experience of their acts and demeanor?

*A.* Well, there are four kinds of epilepsy, divided, according to their symptoms. There is one form the French call "*Petit mal*," and it is simply characterized by a slight vertigo. The patient does not fall in that, neither has he any violent spasm. Then there is another kind, what we call chronic.

*Q.* In that, is there any loss of consciousness?

*A.* Yes, sir; and there is another form in which the patient falls, and the face becomes black.

*Q.* That is the fit itself? *A.* Yes, sir.

## EPILEPTIC MANIA.

Then there is a fourth form, which is termed epileptic mania, in which the individual is able to perform various acts, and at the time is entirely unconscious.

*Q.* What is the name of that fourth form?

*A.* It is called epileptic mania.

*Q.* Have you not found patients who have committed extraordinary acts, and after their perpetration, found them to be entirely unconscious of having committed them?

*A.* Yes, sir; I have had such cases in my own practice, and I have heard of some in the authority of others.

*Q.* That is, of course, beyond all question, a species of insanity?

*A.* It is a species of mental aberration.

*Q.* In point of fact, it is insanity? Yes, sir.

*Q.* May not cerebral irritation, sufficient to cause insanity or produce it, exist for years, and death at last occur from other causes, without our being able to discover any morbid appearance?

*A.* Yes, sir; if we merely judge of the appearance.

*Q.* Now may not organic diseases of the brain give rise to moral disturbances long before the appearance? *A* Yes, sir.

## VOLITIONAL INSANITY.

*Q.* What is volitional insanity?

*A.* Volitional insanity is that form of insanity where a man has no control over his will. It is not a distinct form of insanity; it is merely a variety under which the party knows what he is doing, but he is unable to resist the impulse.

*Q.* It is called impulsive insanity? *A.* Yes, sir.

*Q.* You have known some extraordinary instances of that? have you, Doctor?

*A.* Yes, sir; in which the patient has felt himself impelled violently to perpetrate crime, and has informed people to get out of the way.

*Q.* And will warn people to escape him? *A.* Yes, sir.

*Q.* And commit homicide in some cases? *A.* Yes, sir.

## EXPOSURE OF A DEADLY WEAPON INCITES MURDER.

*Q.* Doctor, the exposure of a knife, or an instrument of death or danger, in such a case as that which you have last described, may not that incite and add to the feeling to destroy life, and germinate it into action?

*A.* Yes, sir; through the principles of suggestion, it would; it might.

*Q.* When does the morbid activity of the propensity to destroy exist?

*A.* In impulsive insanity.

*Q.* With regard to the family or relatives of the sufferer from that disease, is not the desire to hurt those fondly loved stronger than toward strangers?

*A.* It is, certainly, in some instances. There is a case on record of a son who felt a desire to kill his mother.

*Q.* It might apply to a brother? *A.* Yes, sir.

*Q.* Also to a perfect unoffending stranger?

*A.* Yes, sir; but not so much.

*Q.* Not so much as to a relative or friend? *A.* Yes, sir.

*Q.* Where a crime is committed with an entire absence of motive, assuming that to be the case, and no evidence of insanity of the party, might it not be ascribed to one of the causes which you have mentioned?

*A.* It might be.

*Q.* Would not that be the cause, in all probability, given by you?

*A.* I am not so sure of that; I have seen men fire into a crowd with a deliberate design to kill somebody, and do it from mere recklessness.

*Q.* I mean where there is no motive. I am now assuming the entire absence of criminal motive, where no criminal motive exists; in such a case as that, would you not attribute it, or rather classify it, under that which you have last denominated?

*A.* I think I should be inclined to think it is the same.

*Q.* You are supœnaed here for the prosecution by the District Attorney? *A.* Yes, sir.

*Q.* Not called by the prosecution? *A.* No, sir.

*Q.* (*By the District Attorney.*) You were requested by me to examine this prisoner, and to give the results of your examination? *A.* Yes, sir.

*Q.* Will you state what the result of that examination was?

*Mr. Howe.* One moment. I object to that, sir. It has not been brought out on the examination in chief by me, and it cannot certainly form any part of the cross-examination.

*Judge Ingraham.* You brought out that he examined the prisoner twice; your question was whether he was requested by the District Attorney to examine him.

*Mr. Howe.* Will Your Honor give me an exception to that?

*Judge Ingraham.* No, sir; there has not been any effort on the part of the prosecution to inquire into the the question of insanity; you offer this from books, and have asked him many questions on that subject.

*Mr. Howe.* These witnesses were subpœnaed here by the prosecution, and as Your Honor can well understand, we are not permitted to put such questions as we might, if they were witnesses of the learned District Attorney, and, therefore, I want to hold my learned friend to the same rule.

*Judge Ingraham.* You can take an exception if you see fit, but there is no such thing as an exception to an order of proof.

## EXAMINATION OF THE PRISONER BY A SURGEON.

*District Attorney to Witness.* I ask you if you made an examination of this prisoner? *Q.* Yes, sir.

*Q.* What was it?

*A.* At the first examination, on the 6th of February, I asked him a great many questions, with a view to testing his mental capacity. I examined his cranium with my hands, and I examined his cerebral circulation.

At the second examination, yesterday, I measured his cranium in several ways, and again examined him and asked him questions. The result of the first and the second examinations which I made was sufficient to show me that he was a man of not much below the ordinary mental capacity.

I think his mental faculties are undeveloped. I know a great many men who are below him in intelligence, beyond a doubt. I also ascertained that he had no delusions, that his ideas were clear, and that there was no abnormal excitement or depression, and no diseases of the brain, so far as I could ascertain, or of any other organ.

I also found that his cranium is unsymmetrical, the right frontal eminence being more forward than the left.

At the examination which I made yesterday, I measured his cranium and took the circumference at the largest part, around the frontal bone, and I found it to be 23 inches. Measuring immediately above the ears, so that the tape was above his eyebrows, and resting on his ear, it measured 22 inches.

Then measuring each half, to ascertain if there was any difference in the half of the circumference, I found it to be exactly the same, so that the preponderance which exists there, is accounted for on the other side. The two sides are equal.

Then I measured the vault of the cranium, measuring from each way, and that was 12½ inches. Those measurements are all above the average.

From the fact that he shows no marks of imbecility, and no delusion of any sort, I was inclined to think that he is perfectly conscious of his condition and situation.

He was perfectly aware of the fact that he had done something, but did not recollect the act perfectly, he said; but he knew that his life was in danger, for he inquired of me what I thought his chances were. There is no tumor of the brain.

He carried on an intelligent conversation. He was aware of the time and the circumstances surrounding him.

*Q.* Have you heard all the evidence in this case? *A.* Yes, sir.

*Q.* What other reasons or signs do you judge from that he was sane.

*A.* From the fact that he refused to go out, and his saying that he was a brother of the deceased, and from his remarks on the way to the station-house, showing that he understood what he did. A person who does an act of that sort through epilepsy, does it unconsciously, being unable to speak. This must have lasted certainly half an hour.

*Q.* Did you say anything to him on the subject of his having fits?

*A.* Yes, sir; I asked him if he ever had fits, and he said no; and in a person who is subject to epileptic mania, there are always paroxysms which are quite evident.

## POSSIBLE TO COMMIT MURDER WITHOUT KNOWLEDGE OF IT.

*But it is perfectly possible, as Mr. Howe says, to perpetrate a murder, and know nothing about it.* There is a case he has quoted, by Trousseau, of a judge on the bench, who used to leave the bench and urinate on the carpet of his chamber, and then return, and not remember that he had been away.

*Q.* Are all these forms, Doctor, which take on the form of violence, are they all arranged under the same head?

*A.* The authors differ. The fact of a person killing another through an epileptic fit, we would not call it epileptic mania.

*Q.* Would he not just as soon kill a friend as an enemy? *A.* Yes, sir.

*Q.* In that form of insanity, or mania, or unconsciousness, or whatever it is termed, it is not strictly called homicidal mania? *A.* No, sir.

*Q.* What is homicidal mania? *A.* It is that form where the person is conscious, but unable to resist it.

*Q.* Unable to resist it, because he is pushed forward? *A.* Yes, sir.

*Q.* Did you discover in your conversation with this man, first, or secondly, any signs of insanity or mania?

*A.* No; I think his intellect is sluggish and undeveloped.

*Q.* Slow, dull?

*A.* Yes, sir; I think his mind and mental faculties haven't had the benefit of an education to develop them; and I consider him a man of not a very high grade, but still I examined his brain, and found it pretty well nourished on both sides, and up to the full standard.

*Q.* Did you discover that he had any disease of any description to effect his mind?

*A.* No, sir; his physical strength is good; at the same time he is a man of low intelligence.

*Q.* No disease? *A.* No, sir.

*Q.* He knows the difference between right and wrong? *A.* Yes, sir.

*Q.* (*By Mr. W. F. Howe.*) You only made two examinations of this man? *A.* Yes, sir; each one about an hour.

*Q.* And the testimony which you have given, so far, is your opinion, as regards the sanity or insanity of this man, based upon those two examinations? *A.* Yes, sir.

*Q.* In answer to a former question, you answered that cerebral irritation and disease of the brain might exist, and you not be able to discover it? *A.* Yes, sir; I simply stated my belief.

*Q.* Of course it might exist, and you not be able to discover it at the time?

*A.* Yes sir; he may have been violently insane in his sleep that night, and yet I not discover it.

*Q.* Were you examined on the trial of Cole, at Albany?

*A.* Yes, sir.

*Q.* Were you a witness for the defense? *A.* Yes, sir.

*Q.* That is a case which is pretty familiar to many of us; in that case the defendant purchased a pistol, if my memory is correct, the day before the shooting, was it not?

*A.* I do not recollect, sir, because I did not hear the evidence in the case; I did not testify as to Cole's condition at all; I was requested to give my opinion on a particular case, but I never examined Cole until afterward.

*Q.* You were asked to give your opinion, and did, on that trial before Judge Ingraham, that Cole went into the hotel, and shot Hiscock?

*A.* Yes, sir.

*Q.* You did not make any examination of Cole then?

*A.* No, sir. Mr. Brady simply detailed the phenomena, as I understood it, and he asked me whether such or such a thing might be.

*Q.* You gave your opinion that the man might be insane?

*A.* Yes, sir.

It being now 4 P. M., the court adjourned to meet the following morning at the same hour. The prisoner was conducted from the court room to the Tombs, followed by a crowd so dense, and eager to get a sight of the prisoner, that an entire platoon of police were compelled to accompany the sheriffs.

At the opening of the court on Tuesday, the first witness called was *Doctor William T. Nealis*, who was sworn and examined by Mr. W. F. Howe:

*Q.* Dr. Nealis, you are a physician for the Commissioners of Charities and Correction? *A.* Yes sir; and of the City Prison.

*Q.* May not cerebral irritation, sufficient to cause insanity, exist for a great many years, and then death occur from other causes, without our being able to discover during life any morbid appearance? *A.* Yes, sir.

*Q.* (*By the District Attorney.*) Is that not one of the principles laid down in the books?

*A.* Yes, sir.

*Q.* How long have you been a practising physician?

*A.* Seven years, sir.

*Q.* Have you talked with this man (Reynolds) frequently?

*A.* Yes, sir; I examined him several times, and this morning, sir.

*Mr. Howe.* I object to this, may it please the court, on the cross-examination. I asked the doctor one medical question, without reference to the prisoner at all.

*Judge Ingraham.* You asked these questions for the purpose of going to the jury on the question of insanity, and your purpose is to argue that this man may be insane, and the District Attorney has a right to put that question in examining or cross-examining the witness, to show that he (the prisoner) is not insane.

*Mr. Howe.* Your honor knows that Dr. Nealis was subpœnaed as a witness for the people, and the District Attorney did not call him. I now make him a witness.

*Judge Ingraham.* The question of insanity was not raised then. The District Attorney must answer it.

*Mr. Howe.* He has a right to rebutt.

*Judge Ingraham.* Yes, sir; or any other way.

*Mr. Howe.* Is that your ruling?

*Judge Ingraham.* Yes, sir.

*Mr. Howe.* Then you will let me have an exception.

(*District Attorney to Witness, continued*).

*Q.* For what length of time have you conversed with him?

*A.* Five times, and perhaps oftener than that.

*Q.* How long have those conversations lasted?

*A.* From twenty minutes to half-an-hour.

*Q.* Has he been in the city prison since this affair?

*A.* He has been there I believe since the next day.

*Q.* Have you seen him every day? *A.* Yes, sir.

*Q.* What impression was made on your mind by those conversations?

## PERFECTLY SANE.

*A.* After a few moments conversation with him, I came to the conclusion that he was perfectly sane, and he spoke to me rationally and coherently on every subject.

He seems to be a man of no education, at the same time I could not find out anything then that would cause me to think he was insane.

He was not brought into the prison for a couple of days afterward; after this happened.

*Q.* Do you recollect what Dr. Hammond said yesterday, that he (Reynolds) had no delusions. *A.* Yes, sir.

*Q.* You say the same to day? *A.* Yes, sir.

*Q.* Now in cases of mania or insanity, is a delusion one of the marks indicating it?

*A.* Yes, sir; with the vast majority of cases.

*Q.* In a vast majority of cases there is a delusion where insanity actually exists? *A.* Yes, sir.

*Q.* Will you, for the information of this jury, just give us the definition of this term, insanity, in a practical way?

*A.* It is a mistaken idea of a fact which really exists; for instance, if a man saw a yellow daub on that wall, he might imagine it was a piece of gold.

*Q.* As a general thing then, absence of delusion is a pretty good evidence of sanity? *A.* Yes, sir.

*Q.* Did you see Townsend, the man who was killed?

*A.* No, sir; I never saw him in my life.

*Q.* (*By Mr. Howe.*) Did I understand you to say, Dr. Nealis, that, as a general thing, the absence of delusion is an indication of the absence of insanity? *A.* Yes, sir.

*Q.* Do you adhere to that answer?

*A.* Yes, sir; and also in a vast majority of cases, nine hundred and ninety-nine out of every thousand, the insane man has a delusion.

*Q.* Doctor, do you mean to tell us in the face of the authorities, that a delusion always exists where there is insanity?

*A.* I say with the vast majority of cases, delusion generally exists, with the insanity.

*Q.* How many cases of insanity have you seen?

*A.* About a thousand. I saw a case yesterday in Bellevue Hospital.

*Q.* Was there a delusion there? *A.* Yes, sir.

*Q.* Delusions exist in what cases of insanity?

*A.* In every case of insanity.

*Q.* Does it in epilepsy? *A.* Epilepsy is not insanity.

*Q.* Is it not? *A.* No, sir; one attack of epilepsy is not insanity.

*Q.* Is there a delusion in epilepsy? *A.* There may and may not.

*Q.* Is there frequently a delusion in epilepsy?

*A.* Let me explain what I think epilepsy is.

*Q.* Epilepsy, you say, may exist, and does frequently exist, without delusion? *A.* Certainly, it does.

*Q.* Now, sir, in epilepsy, have you not known people to commit the most extraordinary acts? *A.* I never knew one to do it.

*Q.* You have read? *A.* Yes, sir.

*Q.* Have you ever heard of epileptics committing homicide?

*A.* Yes, sir; I have heard of it often, and read of it.

*Q.* Are you prepared to say that in those cases there was a delusion?

*A.* Certainly there was.

*Q.* Existing at the time?

*A.* Yes, sir; at the time they killed those people.

*Q.* And subsiding after the killing? *A.* Yes, sir.

*Q.* You examined this man, three days after the killing, was it not?

*A.* I think it was two or three days afterward.

*Q.* You found him then perfectly rational? *A.* Yes, sir.

*Q.* Did he tell you that he did not recollect anything about this unfortunate affair? *A.* Yes, sir; he said so.

*Q.* Don't you know that even madmen in conversation at times present an appearance of sanity? *A.* Yes, sir.

*Q.* And in the most cunningly sane manner?

*A.* Yes, sir; and sometimes argue very logically.

*Q.* (*By the District Attorney.*) Epilepsy is a disease of the nervous system? *A.* Yes, sir.

*Q.* Epileptic mania is a different thing?

*A.* Yes, sir; I think, sir, that epileptic mania exists after a long attack of epilepsy.

*Q.* You can distinguish between the two? *A.* Yes, sir.

*Q.* In epileptic mania, in nine times out of ten, or as you used the expression, in a great majority of cases, delusions exist? *A.* Yes, sir.

*Q.* Can there be such a thing as epileptic mania, without a diseased condition of the brain? *A.* No, sir.

*Q.* It cannot exist? *A.* No, sir.

*Q.* And that diseased condition of the brain can ordinarily be detected?

*A.* Yes, sir; I think that of mania can.

*Q.* Now, from the examination you have had of this man, and the conversation you had with him, could you discover any evidence of epileptic mania at all? *A.* No, sir; none at all. I could not find any epilepsy or epileptic mania, one or the other.

*Q.* (*By Mr. Howe.*) You say epilepsy cannot exist without a disease of the brain?

*A.* No, sir; I said nothing of the kind. I said epileptic mania.

*Q.* Can epilepsy exist without a disease of the brain?

*A.* Yes, sir; the first attack of epilepsy can. It may be caused by something else.

*Q.* After that has subsided, there would be no evidence of its existence?

*A.* Yes, sir.

*Dr. Reuben A. Vance* sworn and examined:

*Q.* (*By Mr. W. F. Howe.*) You are a physician, residing in this city?

*A.* Yes, sir.

*Q.* Have you made insanity, the treatment of patients suffering from nervous disorders, your study? *A.* Yes, sir.

*Q.* You were subpœnaed yesterday, I believe, by the learned District Attorney? *A.* Yes, sir; I was subpœnaed by the prosecution.

*Q.* At the request of the District Attorney, I believe, you made an examination of the prisoner? *A.* Yes, sir; I did so on two occasions.

*Q.* And when you visited him you found him sane? *A.* Yes, sir.

*Q.* Is he a man of weak intellect?

*A.* He is a man of uncultivated intellect.

*Q.* Is that weak intellect? *A.* Not necessarily.

*Q.* In this instance?

*A.* I say he is a man of both a weak and uncultivated intellect.

*Q.* Did you discover the same malformation of the skull to which Dr. Hammond alluded yesterday?

*A.* I did. I discovered a projection of the right frontal eminence.

*Q.* Diseases of the brain may exist and yet not be discovered on examination, may they not? *A.* Some may.

*Q.* There are some which are not discovered at the time?

*A.* Yes, sir.

*Q.* And there have been instances in which people have acted peculiarly; no attention paid to it at the time, and in the course of some months, affection of the brain has manifested itself?

*A.* Yes, sir; every affection of the brain has a beginning.

*Q.* When we find those in the lunatic asylums, raving maniacs, in the incipient stages of their madness, mania, or whatever it was, there were times at which they would be considered sane, even when suffering from mental disease?

*A.* They would be considered sane by an unprofessional observer.

*Q.* Even with a professional examination, doctor, may not diseases really exist which would not interfere at the time with the mental operations, at another time produce the gravest disorder of them, then entirely disappear, and give no traces of existence? *A.* That is possible.

*Q.* Will you give us your definition of epilepsy?

*A.* It is a chronic disease of the nervous system, and is sometimes attended by loss of consciousness.

*Q.* A patient may have an attack of epilepsy, producing impulsive insanity, may he not? *A.* Yes, sir.

*Q.* Under an attack of epilepsy, are there not instances of patients who have committed homicide, and a few moments afterward knew nothing whatever of the occurrence? *A.* Yes, sir.

*Q.* And in this instance would an examination of the patient three days afterward always demonstrate that epilepsy had existed?

*A.* In my opinion it would.

*Q.* In all cases? *A.* Not every case.

*Q.* Do you remember the case of the judge with the peculiarity referred to yesterday by Dr. Hammond?

*A.* But his physician had already told him about that.

*Q.* His physician told him that he was subject to epilepsy?

*A.* Yes, sir; and advised him to resign.

*Q.* Will you give us your experience in cases of impulsive insanity?

*A.* Well, sir; what is ordinarily known as impulsive insanity, is where a man who is subject to disease acts in a very impulsive manner, involuntary insanity.

*Q.* He has no control.

*A.* No, sir; he may know what he is going to do, and may not be able to prevent his doing it, but will not afterward remember about it. Dr. Hammond cited a case yesterday where a man warned his mother about what he was going to do.

*Q.* Do you remember the case which was tried in Jersey, in which Dr. Gilman testified that there was disease of the prisoner's brain, and some five medical gentlemen testified that there was not; the prisoner was executed, and a post-mortem examination revealed disease of the brain?

*A.* You told me about that case.

*Q.* Is that the only knowledge you have of it?

*A.* Yes, sir; I might have read of it before, but you recalled it to my mind. That might be possible; a man may err.

*Q.* Doctor, is it possible that if this prisoner were to die now, suddenly here, that his brain might reveal disease which you have not discovered?

*A.* Certainly, it is possible, but not probable.

## THE COUNSEL "MIGHT" BE AFFECTED.

You, Mr. Howe, might at this moment have a tumor on the brain. (Laughter.)

*Mr. Howe.* I verily believe I have. (Laughter.)

*Q.* What is cerebral irritation?

*A.* It is an indefinite term applied to that condition of the brain in which there is more blood attracted to it than naturally.

*Q.* That may be from very many causes? *A.* Yes, sir.

*Q.* That produces insanity, does it not? *A.* Yes, sir.

*Q.* May not that exist in a slight degree, the incipient stages, without your being able to discover it? *A.* It might, sir.

*Q.* It might subside? *A.* Yes, sir.

*Q.* And there would be evidence of its existence?

*A.* Yes, sir; afterward. There would be evidence of its existence in a slight paralysis of the body, and a slight insensibility and delusion and hallucination, and all the signs indicated in a diseased condition of the brain. I am pretty certain those signs would be possible.

*Q.* Doctor, you heard the testimony in this case, of the prisoner holding the knife with a grim tenacity, after inflicting the blow?

*A.* Yes, sir.

*Q.* You also heard the testimony of two unnecessary wounds being inflicted, two additional to the fatal wound? Are there instances of insanity cited entirely in harmony with that state of facts?

*A.* Yes, sir; insane persons having held the knife, and insane persons having inflicted more than one wound.

*Q.* That is, those wounds were motiveless? *A.* Yes, sir.

*Q.* (*By the District Attorney.*) Is the fact of his head being disproportioned, an evidence of his insanity? *A.* No, sir.

*Q.* Now, sir, in regard to this cerebral irritation, which you have given the definition of, have you an instrument by which you can look into the brain and see its circulation? *A.* Yes, sir.

*Q.* What do you call that?

## AN INSTRUMENT WHICH PENETRATES THE BRAIN.

*A.* It is an ophthalmoscope.

*Q.* How is that done?

*A.* It is done by taking the patient into a dark room, and casting a ray of light into the eyelid, so that you are able to see the circulation from the back part of the eye, and that part of the nervous system which supplies the brain.

*Q.* You made such an examination in regard to this case?

*A.* Yes, sir.

*Q.* About how long after this occurrence took place?

*A.* The first examination I made was on the 6th of February.

*Q.* Had there been any enlargement of the brain previous to that, could you have detected it in any form? *A.* I examined him.

*Q.* What was the result of the examination, so far as you saw?

*A.* That the circulation of the brain was perfectly normal.

*Q.* Natural? Yes, sir.

*Q.* Brain well nourished? *A.* Yes, sir; there did not appear to be anything in it at all.

## ASSUMED INSANITY.

It is much easier for a sane man to assume insanity, than for an insane man to assume sanity.

*Q.* (*By Mr. Howe.*) Doctor, you do not mean to say that this poor wretch has tried to assume insanity?

*District Attorney.* He has not said any such thing.

*Q.* (*By Mr. Howe.*) Doctor, you have been asked about that instrument—is it not a very recent invention? *A.* Yes, sir.

*Q.* You do not say it is infallible in its workings and operations?

*A.* Certainly I do not.

*Q.* Like many other scientific inventions and appliances, its efficacy is yet to be tested?

*A.* Its efficacy is to be ascertained from the man who uses it and his skill.

*Q.* May not this man have suffered from one of the many causes of insanity of which we have spoken during this trial, and the symptoms have subsided at the time of your examination? From any one of which you have spoken?

*A.* Yes, sir; he may have suffered from the causes, but may not have been insane.

*Q.* The result of an epileptic fit following, would subside in three or four days?

*A.* In this state it would not. I have stated that in many cases the effects would have subsided, but that some of the traces might be discoverable.

*Q.* In how many days might it subside?

*A.* I have looked at this thing carefully, and I have watched two cases of epilepsy, and I have seen the effects remain ten days.

*Q.* They are cases brought under your care? *A.* Yes, sir.

*Q.* It was more than ten days after the commission of this murder that you examined this man? *A.* No, sir; I think not.

*Q.* Will you undertake to say, doctor, that the signs would have continued for eight days? Do they in every instance?

*A.* I cannot speak only of what I have seen in those two instances.

*Q.* Do you say that in every case of insanity, the causes to which I have referred, that they would continue for eight days?

*A.* I have stated no definite time.

*Q.* Cerebral irritation might subside, and would subside, would it not, in some instances? *A.* Yes, sir; the cause being removed, it might subside.

*Q.* (*By Judge Ingraham.*) Do you mean that after an epileptic fit there is always insanity? No, sir.

*Q.* Does any insanity follow an epileptic fit which disappears?

*A.* No, sir; the insanity following an epileptic fit remains.

*Q.* What other symptoms follow? *A.* A desire to sleep.

*Q.* Anything else?

*A.* Yes, sir; there is a peculiar appearance under the skin, like a flea-bite, and in some cases there is paralysis in the arm; I have had my attention called to several cases.

*Q.* Are there any of these symptoms present in the prisoner?

*A.* No, sir.

*Q.* None at all? *A.* No, sir.

*Q.* So far as you have examined? *A.* Yes, sir.

*Q.* I believe Dr. Hammond said that he (Reynolds) had no fits?

*A.* Yes, sir; he said to Dr. Hammond, in my presence, that he had no fits.

*Q.* (*Mr. Howe.*) This unsymmetrical defect in the form of his cranium, I understand that has produced insanity in some cases?

*A.* (*Judge Ingraham*). That has been answered once, sir.

*Captain Jeremiah Petty recalled:*

*Q.* (*By Mr. Howe.*) You stated yesterday, captain, that you visited this man in his cell? *A.* Yes, sir.

*Q.* Did you ask him about this lamentable occurrence?

*A.* I asked him what he was there for?

*Q.* What reply did he make? *A.* He did not know.

*Q.* Did he rub his head and look peculiar? *A.* Not at that time, sir.

*Q.* Did you tell him that a murder had been committed? *A.* Not then.

*Q.* Did you afterward? *A.* Yes, sir.

## KNEW NOTHING ABOUT THE MURDER.

*Q.* Did he tell you that he did not know anything about it? *A.* Yes, sir.

*Q.* (*By the District Attorney.*) In any conversation you had with him, did he tell you what he went into Mr. Townsend's for? *A.* Yes, sir.

*Q.* What did he say?

*A.* It came this way, sir; I asked him if he went in there to steal, and he said he did.

*Q.* You have seen Townsend, the man who was killed? *A.* Yes, sir.

*Q.* About what size of a man was he?

*A.* About 5 feet 10 inches; I saw him lying on the bed when he was dead.

At the conclusion of this witness's examination, Mr. Howe said: There is one other witness whom I shall call. He is the principal actor in the drama. I shall place the prisoner on the stand, and permit the District Attorney, and the jury, and the court to examine him.

## THE MURDERER A WITNESS.

*John Reynolds*, the prisoner, was then placed upon the stand, and sworn in his own behalf.

*Judge Ingraham to the District Attorney.* Do you want to examine him?

*District Attorney.* No, sir.

*Judge to Mr. Howe.* Do you desire to examine him?

*Mr. Howe.* No, sir; but some of the jurymen may desire to ask him some questions.

*Q. By a Juror, Charles Jones.* Into whose place did you go first—into the grocer's or the shoemaker's? *A.* I don't know, sir.

*Q.* What brought you into the grocery store?

*A.* I don't know what I did. I don't know, sir, that I was in it at all.

*Q.* Where did you sleep the night before?

*A.* I don't know where I did sleep the night before.

*Q.* Where did you sleep the night before that?

*A.* I think I slept outside.

*Q.* Outside where? *A.* On the street.

*Q.* On the morning of the murder had you your breakfast?

*A.* I had.

*Q.* When you entered the grocery first, where did you go?

*A.* I can't say.

*Q.* Do you remember going into the shoemaker's store? *A.* No, sir.

*Q.* You do not remember going in there? *A.* No, sir.

*Q.* Don't you remember having asked the shoemaker for a knife?

*A.* That I do not remember, any more than what the captain told me.

*Q.* Did you take a knife from the shoemaker's store?

*A.* I don't know.

This closed the testimony on both sides, and Mr. W. F. Howe proceeded to address the jury as follows:

*May it please the Court, and you, Gentlemen of the Jury:* To say that I feel acutely the responsibility of this case, is but to convey feebly to you the impressions and workings of my heart at this moment; for I cannot divest myself, gentlemen, of the solemn knowledge, that to me, to some extent, is confided the life of a human being. But, thank God, not to me alone is that responsibility confided; it is a common one, in which we all participate; and, for some good reason, known only to Him "through whom we live, and move, and have our being," it is left to-day to you, by your verdict, to say whether this poor, wretched, animated piece of "ruined nature," one, certainly, of the poorest of God's creatures, is, upon testimony, such as has been introduced, to be strangled by the cord of the hangman, when a powerful indication of insanity is there, defying science, fallible as it has proven itself in many instances—defying doctors—defying district attorneys, and, in the monitory voice of God, telling you, in a portion of God's own image, that you *should not hang an insane man.*

Gentlemen, that a most revolting crime—murder, if you please—was perpetrated; that the sympathies of all of us must be extended to the utmost to the widow and the orphans, I admit; that the horrid circumstances, the details of which make us all shudder, in sympathy with the living, sorrow for the dead, and, perhaps, at first, indignation against the accused, are true, there is no doubt; but in proportion to the horror of the crime, in proportion to the atrocity of the revolting details, so do I positively and with confidence urge, that the greater the enormity the more extravagant the horror, so here, gentlemen, is that man's proportionate insanity evidenced. Ask yourselves this question: "Would any sane man," shall I say, would less than fiend, without revenge, without malice, without gain, without notice, have committed so horrible a crime?

And in entering upon the consideration of this case, start with that

point. The weakest of us never act without motive. The hand is never lifted to the head without design or motive. It is motive which actuates each action in our daily lives; and I start the consideration of this case by asking "What was the motive of this man, if sane, for the commission of so heinous and cruel a murder?"

But I am prepared in the discharge of my duty, and it is one from which I will not shrink, notwithstanding public indignation and prejudice, to demonstrate to you as men of common sense, as men who have in your hands this man's life, that the testimony, from beginning to end, even to the last scene upon that stand, proclaims in mighty voice, that permeates your understanding, and never will be eradicated from your minds, when you retire for deliberation, that "Jack Reynolds" as they call him, who, without cause, and as the District Attorney properly said, with no provocation, plunged a knife, which he had stolen, into the heart of a man *whom he believed to be his own brother*, IS AN INSANE MAN. To detail the testimony would be almost unnecessary, for it is fresh in your minds. You heard from the lips of those poor little orphans, the circumstances of the deed. You heard the testimony of Kline who caught the prisoner on the step, on the top of his victim, and you will remember he stated that he found the knife in Reynolds' grasp, long after the perpetration of the fatal deed; held the prisoner with a tenacity of purpose which speaks volumes that he was insane; for the District Attorney must tell you that those who murder do not retain the evidence of their guilt. The first impulse of the "SANE" assassin is to destroy the evidence of his crime, and not cling to it, as did this imbecile, when outside the scene of blood and long after the perpetration of the deed.

Stepping from the scene of the knife and walking along the street, he resists. Would a sane man, without a friend near, act thus? Take the case of a murder committed in this court-room by a stranger here, without a friend, surrounded by the police — would he attempt an impossible escape? That was resisting insurmountable power. He resists upon the street, and as one witness described it, "*this frenzied man*," and *he* used the word, but with a subtlety which crept into his mind, and which may be excusable, thinking it was his duty to say all he could against this wretched man, he said it was not exactly "frenzy," but he was wild and rough.

Oh, but gentlemen, in going along, he uttered not a word about the deed; but he said, "I can lick any two of you," resisted and struggled, hopeless maniac as he then was. He was taken to the station-house. He stands in front of the desk, and in reply to the interrogation of the sergeant, says his name is "Reynolds," that he was born in the "United States," after ten minutes before, telling one of the witnesses (the shoe-maker, if I am correct) that he was a Scotchman!—and there was no necessity for these discrepancies; they only go to *evidence his wandering mind*, if mind he had.

"Your occupation?" "Thief!"

Do sane people degrade themselves? Has my friend, the learned prosecutor, than whom a more zealous or faithful official never existed, in the course of his long experience, ever yet have arraigned at his bar, or known a person accused of crime, to say, "*I am a thief.*" Oh, no! They cloak, they shroud, they conceal their occupation; and they urge, and sometimes

with good effect, their extreme respectability. But why did this man enter the shoemaker's shop; why steal that knife, of no value except for the interpretation which I shall give by and by, supported by medical authority? You may remember, gentlemen, the question I put to Dr. Hammond, as to the sight of deadly weapons engendering the desire to kill. And I do believe that wretched being, as he was then, and is now, if he can feel remorse or sorrow, if he has mind yet left to feel that—which I doubt—maniac as he was then, the sight of that knife created the desire to kill, and he stole that knife to take the life of some one, whom he cared not. For whether it was epilepsy, whether it was mania, whether it was impulsive insanity,—let it have assumed what form it might,—let science designate it with her fancied appellations, and all the learning with which to dignify disease, disease was there! *A diseased mind, which prompted the taking the knife! A diseased mind, which prompted the taking also of the life of Townsend!* But there is a conversation at the shoemaker's. See if this is not important. You are told by one of the policemen, Sergeant Tuck, that this man "*appeared*" to have been drinking, and that he smelled his breath, and that there was some smell of whiskey; but the conversation in the shoemakers forbids that construction. I say that the prisoner was sober at the time, and he had a sober conversation with the shoemaker, and I asked how many steps he ascended, and he said "three or four." He watched him walking soberly up them, then he came to the scene of this homicide.

The first words he uttered to the deceased were, "*You are my brother.*" Was that a delusion? To that, my friend, Dr. Nealis, has told you to-day that this man had no delusion; but I say the evidence contradicts the doctor beyond a doubt, because it is sworn here to-day that he said, "*You are my brother.*" What reply will be made to that? It was unquestionably a delusion!

Pray, gentlemen, what purpose could he have in telling a stranger,—a man of fifty years of age,—a hale, hearty, stout, corpulent man, unlike this lunatic prisoner in features,—unlike him in physical development, unlike him in every aspect,—for what purpose, I repeat, would a poor, miserable, dirty, filthy, half-savage, half idiotic wretch, go into that house and tell the deceased that he was his brother? If sane, gentlemen, could that operate upon one of you to admit relationship which never existed? Could it have been for the purpose of extortion, which may be suggested? But that idea must be at once repelled, because it is absurd upon the face of it, for there is no evidence, or even suspicion, of any attempted extortion; so that with the delusion, I say, that this man was his brother, he entered that store; he sits down upon a milk can—and I suppose, gentlemen, you can picture that scene. This wretched being there, moody, dejected, his brain diseased from one of the causes to which I shall call your attention. You remember Dr. Hammond spoke of the quality and poverty of blood generating disorders. You remember my asking one of the witnesses if this man's appearance had not improved since his entrance to the Tombs. Even prison fare, and prison treatment, have improved his wretched looks, his blood, and his physique; and when I tell you that, and you look on him to day, you can form a pretty accurate picture of him at the time he was sitting on that milk can in the store. Poor Townsend asks him to leave; and then,—*without a word,—without a blow,*—he takes this knife

and plunges it into Townsend's heart. Now, if I rest there, without another observation, ask your own hearts, resting on that spot, what motive could any sane man have for such deliberate, for such revolting, murder? I am content to rest the issue of the case upon that simple state of facts alone, for what answer can you give as to his motive to stab, with this deadly weapon, an inoffensive, unoffending stranger?

The killing of a human being is not murder. It is the killing with a bloodthirsty intent, and with a wicked heart. Did that intent exist here?

But let us now look at the medical testimony, and see what bearing it has upon this case.

The learned District Attorney, with the power of this great county at his control, can send forth his edict and bring before you the most eminent physicians, and the greatest ornaments to science, in the community. How different with that poor, I had almost said friendless man, but if I had, it would be an insult to your intelligence, for I believe now, as surely as I am here, that you *are* his friends to this extent, that you will not permit him to be hung, unless you have no lingering doubt of his insanity. You won't let his poverty condemn him,—you won't place the outcast on the gallows tree, when in our Tombs to-day are numbers of powerful assassins, —men of influence,—men of means,—men of friends,—men of great resources—who have been immured there for months and months, and have, so history tells us, committed *murders ten thousand times more fearful than this*, because done in deliberation and surrounded with intelligence. *They* have not been brought to trial within twenty days of the commission of their deeds. They are fed and pampered, and have luxurious cells, and able counsel employed! This poor victim is friendless and alone, and it is only through the mercy of the court that my feeble, humble services are now tendered to present my views to you. But for that intervention, this man to day could not speak, for as I before stated, he is without a friend is here "*not himself*," for he has *no mind*, but I, as his counsel, believe an; say for him that he is here to day for a fair and impartial investigation. Now, gentlemen, for the poor outcast, the "*motiveless murderer*," the man with the "unsymmetrical cranium," as Dr. Hammond called it, in the words of science, but which to my humble interpretation means a faulty skull; on behalf of him let me show you what science says of people in this country, in France and England, who have committed worse crimes, under circumstances analogous to the state of this man's mind. And the court gave me permission to read from these authorities as a matter of justice, and I think that an apology for detaining you would be out place, for no time can be too long, nor can any of us make too great a sacrifice to ascertain whether we should contribute to the taking away lightly of the life of a human being. And I am sure that by medical science I shall be able to demonstrate that the prisoner was irresponsible for the act for which he is now being tried. The vulgar notion of insanity is, that it consists in an entire deprivation of reason and consciousness, but the slightest acquaintance with the insane, proves that they are not only perfectly conscious of their actions, but that they reason on their feelings, and their impressions.

The medical testimony discloses that monomania generally assumes one of two forms: either the thoughts are lively and gay, or they are oppressed with gloomy melancholy, as was poor Reynolds when seated dejected in the store. In the first state, the persons will fancy themselves to be kings and

queens. In the second (as in Reynolds) we find silence, seclusion, sorrow, dejection. The latter condition is called "*melancholia*," and is by no means an uncommon thing. Melancholia frequently leads to acts of suicide or murder. In the lighter form of the disease there is no sign of mental aberration, and the patient will go through his usual routine of duty, but always with some desponding air. In other cases, the delusion is so well concealed UNTIL THE ACT COMMITTED (AS IN THIS CASE) LEADS TO THE INQUIRY AS TO THE SANITY.

My learned friend, the District Attorney, asked Dr. Hammond as to homicidal mania, and Dr. Hammond agrees with Dr. Taylor. "Homicidal mania is a state," says Taylor, "of partial insanity, accompanied by an *impulse to the perpetration of murder*, and is called "*impulsive mania*."

There may or may not be evidence of intellectual aberration, but the destructive impulse, like a delusion, cannot be controlled by the patient. *It dominates over all other feelings, and leads a person to destroy those to whom he is most* FONDLY ATTACHED.

Now, please do not forget in this application, the opening words of this poor fellow to the deceased: "YOU ARE MY BROTHER."

Sometimes the impulse is long felt, but concealed and restrained; there may be mental signs of depression, loss of appetite, and then only for the first time when the act is committed, to appear. Then we are led to conclude, certain peculiarities of language and conduct, scarcely noticed beforehand, which must have been the symptoms of insanity, and an act of murder is perpetrated *with great deliberation, and apparently with all the signs of sanity.*

These cases are rendered so difficult by the fact that there may be no distinct proof of any disorder of the mind, so that the chief evidence of the mental disorder is *in the act itself.* Is not, then, the act of Reynolds stabbing the man whom he mistook for his brother, the special, demonstrative, positive evidence of Reynolds' insanity at that time?

Now, gentlemen, an erroneous notion may prevail that a homicidal mania is easily to be distinguished from a sane crime, by certain infallible signs and characters, which it is the duty of the medical witness to display in evidence; but a perusal of the evidence given at a few trials will satisfy those who hold to this opinion that each case must stand by itself. Here it is: Dr. Hammond says, "*Each case must stand by itself.*" Each act must have its own signification to the jury; and that you may draw the distinction between the burglar who breaks into your house at night and intends to rob, and when detected in the act, turns around and fires the pistol or strikes you with a dagger; there, the motive of escape to avoid detection and punishment is the answer to the commission of the offense, because that is the motive. So, the man who finds that the partner of his bosom has committed adulterous intercourse with a friend, buys a pistol and shoots the adulterer who has deprived him of that which is dearer than life, invaded his domestic home, and made that which was happy, forever miserable. There, the motive was both jealousy and revenge. "But," says Taylor, "each act must judge for itself," for Reynolds had no motive to murder Townsend. He had taken nothing there! He had stolen nothing there! He was not going to be arrested! He had not even been hurt! Townsend, instead of offering him an indignity, spoke in terms of kindness, and mildly expostulated as to the delusion which actuated him.

"You are mistaken," said poor Townsend. "You must leave my house;" and then he killed him. Is the motive there? Ask that question again and again to yourselves. At each point of your deliberations, when you come to consider, let that intrude! Do not fail in this, but ask, "What motive?" But I had previously said, gentlemen, that in words of mild forbearance, the poor deceased said, "*Please go out;*" and for that kindness of expression he caused the blow of death without any earthly attributable reason; and yet you are to be asked to find that he had a motive, because three doctors, subpœnaed by the prosecution at this trial, and this alone, and *whom the prosecution did not dare to call*, and who have been taken by me from the enemy's camp, say they did not find prisoner actually insane at the times they examined him. I do feel justly and honestly defiant on this point, and I beard science in its own den, and the authorities I now produce, and which I shall refer to hereafter, the facts of the case, and the inspection of that wretched man himself, all now potently unite and compel you to admit that this wretched, demented prisoner had no motive for the assassination of Townsend.

Gentlemen, look around this vast assemblage; scan each visage in this court-room with care and with deliberate scrutiny, and I tell you, without fear of contradiction, and I will hazard this verdict upon the position I advance, that there is none here to-day (and if I am not complimentary to some at the extreme end of this spacious court-room, I may be pardoned) amongst one of the not most select audiences in the world, upon whose face, upon whose "*unsymetrically formed cranium*," as Dr. Hammond has called it, can you find the delineation of insanity, as is plainly visible in this little miserable maniac, Jack Reynolds! You cannot, amongst this great concourse, find one who can descend to him in appearance or intellect. He is abjectly poor! He is abjectly friendless! He is abjectly demented! He was placed upon the stand. Why did I do that? The District Attorney, than whom, as I before told you, none abler preceded him; an experienced criminal lawyer long before he became our public prosecutor; could have cross-examined that man, could have gone back to his history from his cradle; and with his skill, and pardon me (I know he will, for using the word "*subtlety*" in the sense I mean), and with his *subtlety*, if that man had been sane, why, gentlemen, none so able as Judge Garvin in putting a dozen pertinent questions to have demonstrated that beyond a doubt. I threw down the challenge, and why? Because I was fortified, that idiot as he is, one of you, or the District Attorney, would have discovered in a few questions if his sanity—if sane he were—and that from his own lips, you should learn whether he committed this murder, knowing that he was doing wrong.

And believe me, gentlemen of the jury, in the course of a somewhat lengthened experience at the bar, I have never known a man accused of murder submitted to the examination of the jury, and of the District Attorney. This poor imbecile, oblivious to-day of the enormity of the crime he has committed—in fact, entirely forgetful of the perpetration of the horrid crime at all—has been by me submitted to the prosecuting officer for examination; and I can well understand why my learned friend, the District Attorney, refused to avail himself of the opportunity. He was afraid! Afraid of an imbecile! But I was immeasurably gratified, when in honest sympathy and in integrity of purpose, one of you, gentlemen,

questioned this poor maniac as to the circumstances; and my auricular faculties being pretty good, I heard one gentlemen of the jury suggest to another, "See if he remembers going to the shoemakers?" And, indeed, a pertinent question it was. I might almost say, that to an extent, did his life hang on that answer. But God had perhaps ordained that the idiot should not give an apparently sane answer to that question; and he told you, in reply to the interrogatory," *I dont remember being there at all.*" I cannot imitate him, for he is "NATURE'S MADMAN," and he has told his story. It is God who is speaking in him, in volumes of powerful eloquence and dictatorial language, to spare the madman, and the Divine interposition will be proclaimed by your verdict, that a lunatic shall not be hanged!

Now, gentlemen, with regard to the absence of motive, let us earnestly and carefully consider the doctrines laid down by our ablest recognized authorities and able judges, and amongst them one of the presiding justices on the bench. (Here the learned counsel read, at great length, from Ray, Taylor, Trousseau, and Maudesly, on insanity.) The criminal (continued Mr. Howe) never acts without a motive; it may be the avoidance of some personal inconvenience, or the acquisition of property, or it may be the gratification of revenge, which I illustrated, as in the case of the shooting the seducer of a man's wife; but it is always to accomplish some selfish object. The "MONOMANIAC," as distinguished from the criminal, always acts *without* motive, or one so meagre as to be itself direct evidence of derangement.

With the criminal, death is, therefore, a means by which he seeks to accomplish some ulterior end; but, with the insane, it is entirely divested of that character, and becomes the end in view, or that which must be so regarded, in a sane person. Hence, the criminal never sheds more blood than is necessary for the attainment of his object; whilst the *monomaniac* often sacrifices those within his reach, and is never satisfied with the first craving of his destructive propensity. Do you remember that I asked Dr. Vance as to the unnecessary cuts (there having been no resistance by poor Townsend), and the clenching of the knife,—the retaining of the evidence of the deed of blood long after the assassination had been committed? The act of the prisoner was, beyond all doubt, the act of a madman, regardless of time, place, or witnesses.

Was not the act of this man regardless of time—regardless of place—regardless of witnesses—careless as to who saw the deed committed? A sane man, in broad day, without provocation, without motive, could never have committed this crime! A sane man, to murder for revenge, would never have perpetrated the assassination with witnesses looking on! But here this poor demented, God-forsaken wretch, knowing nothing, entirely oblivious to all the senses and faculties of the human mind, went there, in presence of numerous people, and stabbed poor Townsend; and, after the stabbing, inflicted two unnecessary wounds, and *retained clenched, for some time after, the instrument with which the death was effected!!* What will you say when I tell you of a fond father, who, tenderly attached to his wife and children, in a frenzy savagely murders them? A fond mother destroys her infant! Would you not unhesitatingly proclaim each insane?

Gentlemen, permit me now to revert to the favorite authority of Dr. Hammond, "*Ray on Insanity*," in regard to irritation of the brain, which,

you may remember the medical witnesses admitted, may have arisen from very many causes, and which it was testified to might exist, and be subdued afterward, and no science tell that it ever had its place there. Now, it is conceded that this disorganization, this affection or irritation of the brain, producing these insanities, must have a beginning. Then, of course, as with a fever, or with a cold, which you and I take, we know that at the commencement the symptoms are slight, the affection is less painful than after two or three days, when it increases with vigor; and then medical aid is called in, it goes along, gradually descending and subdued. So with the irritation of the brain; so these instances tell you,—endorsed by the medical witnesses,—*that cerebral irritation may have existed in this poor fellow, and yet not be discovered!!!* Will you dare convict in so extreme a case of doubt?

Remember, gentlemen, I implore you, "*that cerebral irritation*, SUFFICIENT TO PRODUCE INSANITY, *may endure for years, and death occur at last from other causes, without our being able to discover any morbid appearance at the time.*" That was the question I put to Professor Hammond, and it was answered (as the stenographer's notes will inform you) affirmatively by him. Now, pray, say, if you can, why insanity, produced by "*cerebral irritation*," did not exist, when Reynolds, without notice, plunged the knife into the heart of Townsend?

You must bear in mind, gentlemen, that when cases of this description are subjected to judicial inquiry, it is difficult to satisfy a jury of the genuineness of the disease, because it may have then existed, and since abated and disappeared entirely, and you can only judge of its existence from the facts, namely, the *delusion* that deceased was prisoner's brother, and the *entire absence of motive.*

Now, gentlemen, Professor Ray tells us that "*volitional insanity*" occurs in a manner precisely similar to the acts of the prisoner; and the learned Professor mentions an instance of a syphilitic patient, who, having recovered from his disorder, was about to quit the hospital, when, suddenly, without the least premonition, he began to vociferate and destroy the furniture of his room. He stripped off all his clothes, tore out his hair, beat his head against the walls, and tried to bite and strike all who approached him. He seemed to be excessively frightened, as if pursued by somebody who sought to take his life. His pulse was hard and quick, his body was covered with a cold sweat, he frothed at the mouth, and trembled violently. In the course of a couple of hours—*not eight days*—he came to himself, and was perfectly calm and cool. Apply that case to this prisoner, and form your own opinion!

I will now read from page 152 of Ray: "A sober and industrious shoemaker arose early one morning to go to his work, when his wife was struck by his incoherent discourse and wild looks. He seized a knife and rushed upon her, when the neighbors seized him and prevented any damage. His face was red, pulse frequent and rather full, body covered with sweat; his eyes flashed, and his look was wild. About noon he became calm, and slept. In the evening he had recovered his faculties, *but had no idea of what had happened him.*" Connect that case with the answers which this poor wretch gave you, and see if that is not identical. But, permit me to apply another case: "A young man laid down one evening in good health. Some persons entering the room, he threw at them whatever he could lay

his hands upon, until he fell back upon his bed exhausted with fatigue. He sang, cursed, and tried to get at his sword. He knew nobody. His face was not red, nor his head hot, but his eyes were wild, and his pulse rather full. The next day he had not the least recollection of what had happened."

Now, gentlemen, one of the witnessess spoke of this man Reynolds as being "wild;" although, since Reynold's advent to this court-room, he needed no witness to tell you that! At no moment during this investigation could you have looked upon him without seeing the wild, the vacant, the the idiotic, the imbecile appearance.

Let me now present to you another case from that book which Judge Garvin holds in his hand, Mr. Ray, the author so proclaimed by Dr. Hammond. "A tailor of sober and industrious habits, after returning one morning from a walk, sat down, refused to eat, then suddenly began to upset everything in the room, and finally rushed upon his wife, when the neighbors came in. The next day he had no recollection of the occurrence."

"One day while passing along the street, says Dr. Ray, I was requested to come in and see a man of a bilious, nervous temperament, very susceptible of impressions, but robust, and free from any bodily ailments. He was breaking the furniture, tearing up his clothes, and endeavoring to assault his wife. His faced was flushed, his eyes wild, veins and muscles swelled. He cried and sang. On seeing me, for whom he had long felt a great regard, he seated himself near a table, which he kept striking with his fist. We learned from his friends that nothing had occurred to which this outbreak could be attributed. He soon after came to himself and promised to be quiet. In the evening he had no recollection of the occurrence."

If Dr. Nealis had been called in to that man that night, he would have said, "*I find no evidence of insanity in him*," and yet he breaks the furniture and assaults his wife!!!

The learned counsel here cited the case of "*Freeman*," in which Secretary of State, Seward, was the counsel, and argued that there was greater reason for attributing insanity to Reynolds than to Freeman.

Mr. Howe continued:—Now, gentlemen, we have a shocking case in regard to absence of motive, given us by Ray in these words:

"In a respectable house in Germany, the mother of the family returning home one day, met a servant against whom she had no cause of complaint; she begged to speak with her mistress alone, and threw herself upon her knees, and entreated that she might be sent out of the house. Her mistress astonished, inquired the reason; and learned, that whenever this unhappy servant undressed the lady's child she was struck by the whiteness of its flesh, and *experienced the almost irresistible desire to tear it to pieces.* She felt afraid that she *could not resist the impulse*, and preferred to leave the house."

Here is yet another from the same authority: "A young lady experienced homicidal desires for which she could assign no motive. *She was rational on every subject*, and whenever she felt the approach of this dreadful propensity she shed tears, and entreated to have the straight-waistcoat put upon her."

Another yet succeeds, gentlemen, on all fours, with my case: "A carrier belonging to the bailiwick of Freudenstadt, who had quitted his family

in perfect health, was suddenly attacked by a paroxysm of furious madness, on the route between Aalen and Genunde. His first insane act was to shut himself up in the stable with his three horses, to which he gave no fodder, and when departing he harnessed only two of his horsess, accompanying the carriage mounted on the other. At Moglengen he abused a women; at Unterbobingen he alighted and walked before his horse with a hatchet in his hand. On the route between the last place and Hussenhoffen, the first person he met with was a woman whom he struck several times with his hatchet and left her lying in a ditch by the road side. Next he encountered a lad thirteen years old, whose head he split open; and shortly after he split the skull of a man thirty years old, and scattered his brains in the road; and after hacking the body, he left the hatchet and carriage and thus proceeded towards Hussenhofen. He met two Jews on the road whom he attacked, but who, after a short struggle, escaped him. Near Hussenhofen he assaulted a peasant, who screamed till several persons came to his aid, who secured the maniac and carried him to Genunde. They afterward led him to the bodies of his victims, when he observed, "It is not I, but my bad spirit, that has commited these murders."

Professor Dean cites the following extraordinary case of "volitional insanity:"

"William Brown was tried at Maidstone, England, in 1812, for strangling a child whom he accidentally met one evening while walking in the country. He took up the body and laid it on some steps, and then went and told what he had done, requesting to be taken into custody. On the trial he said he had never seen the child before, had no malice against it, and could assign no motive for the dreadful act. He bore an exemplary character, and had never been suspected of being insane."

"Marc, the distinguished medical jurist, relates, that passing over a bridge in Paris one day, he observed a lad sitting on the parapet of the bridge eating his breakfast, when he was seized with an almost irresistible desire to push him into the river. The idea was but a flash, but it filled him with such horror that he rapidly crossed over to the opposite trottois, and got out of the way as soon as possible. Talma, the actor, also assured him, on hearing the story, that he had experienced the same propensity under very similar circumstances."

Professor Dean also furnishes us with another case, which I will now read:

"Almira Brixley was a married servant in a respectable English family; and one day, in the spring of 1845, while the nurse was out of the room, she obtained a knife from the kitchen and cut the throat of her master's infant child. She went down stairs and told what she had done, inquiring, with some anxiety, whether she would be hanged or transported. *No delusions were detected* (precisely poor Reynold's case), nor had she manifested any other mental peculiarity, except some violence of temper about trivial matters a short time before. See had expressed a little dissatisfaction with her share of her mistress' cast-off clothing, but beyond this there did not appear to be a shadow of a motive. There was some proof, though not very definite, that she had labored under some menstrual disorders. She was acquitted and sent to Bethlehem hospital."

Now, gentlemen, I will refer you to Trousseau, the celebrated French authority, in which he says: "The records of courts of justice are full of

cases of murder attributed, by medical men, to cerebral defects and epilepsy."

The learned counsel here quoted several cases from Professor Trousseau's work on epilepsy, and then continued:

Now please bear with me whilst I take you back to Dr. Hammond's testimony, and to that of Dr. Vance, that epilepsy might exist at one time, and the traces of it *might remain, or might disappear*, and then apply the evidence given on this trial, and tell me if you can attribute the deed to anything but insanity? Dr. Vance says he has two cases of epileptic mania now under treatment, in which the symptoms remain; but whether they would remain for eight days, he would not undertake to tell you; so that let us see if all these cases of insanity, in their various forms, to which I have referred, may not, nay, do not, exist in this poor, wretched man. And you will remember that Doctor Vance did not examine Reynolds until eight days after the tragedy.

Gentlemen, you must reason this case amongst yourselves, in your own common-sense way. You must not be distracted by the *medical terms* you have heard, or the subtle reasoning of science, or the artificial interpretation sought to be arrived at from the circumstances, as they have existed in this case. You must take the fact, and never lose sight of it, that *this poor wretch had the delusion that the murdered man was his brother;* next, that he was treated kindly by the murdered man, and that he stabbed him *without motive, and then retained possession of the weapon.* They are the prominent facts of the case; they are facts that must strike your minds as they do mine, and upon them must you find your verdict. Never mind the doctors. They cannot displace them, nor can they contradict their existence. Remember the introduction of that beautiful machine, designated the "opthalmoscope," which science had invented, and which is paraded before us as a new discovery. When I put the question "Was this fallible?" "Oh, yes," was the answer, "it may be fallible, but it is one of recent appliance, and has never been known to err;" which almost seemed to me that men of science attempted to attribute to that instrument *made by human hands, the power of Omniscience,—to know the secret workings of the human brain,*—which, I say, none but *One eye can see*, and *He* alone. An army of surgeons could never tell me, nor shall they tell you, as common-sense men, that it is not a matter of careful consideration, whether this prisoner is sane at *this* moment, aside from the time he committed this crime, opthalmoscope or no opthalmoscope!

Look at the case cited in Trousseau, of the judge who left the bench and urinated on his carpet in his chamber. You may remember it was given in testimony by Dr. Hammond; and, said Dr. Hammond, as that judge went on with the hearing of his case, passed upon it, listening with reason, *he had no recollection of the peculiar act which he had committed.* In reference to that case, Trousseau makes this remark, and hear how it applies to this case: "Now, had this patient quarrelled with and killed a man in the streets, would a magistrate have believed that an individual who, five minutes before and five minutes after, was remarkably intelligent, and who, during this pretended nervous seizure, seemed to have his free will, could commit murder under the influence of an irresistible impulse?"

These words seem to have been written by Supreme ordination for this case. Says the learned Professor Trousseau: "Had he quarreled with a man and killed him in the street, would a magistrate have believed (let me

substitute *you*, gentlemen of the jury, for the word magistrate) that the individual, *who five minutes before and five minutes afterward, was remarkably intelligent, could commit murder under the influence of an irresistible impulse?*" And that reminds me, gentlemen, of the case to which I referred, when General Hammond was giving his testimony. It was the case of ex-senator Cole, tried at Albany before the learned judge who now presides. Cole had a pistol, or procured one somewhere, before the commission of the deed, when he had time to reflect, and went the next day with deliberation to the hotel where Hiscock was, and shot him dead!

Oh, but *then*, gentlemen, Professor Hammond was a witness for an "*ex-senator*," I believe. Professor Hammond, at all events, was a witness for a man of vast property—of high standing in the community—who commanded the highest intellect the bar of the country afforded—who was surrounded by professional skill; but who, *nevertheless, committed that act with premeditation and deliberation!* He deliberately shot a human being, and in that case HE WAS PRONOUNCED INSANE!!! Sane a moment before, and insane at the commission of the offense, and sane a moment afterward!!!

*Judge Ingraham* (interrupting). Sane before the commission of the offense, and sane after; but the jury were in doubt as to his sanity at the time of the perpetration of the murder.

*Mr. Howe* (continuing). Very well; I accept the amendment. All the better for my comparison. This rich man—this rising man—this intellectual man *with a finely-formed head; he* hadn't "*an* UNSYMMETRICAL SKULL," was pronounced by the jury, as the learned judge told you, to be not guilty, for the reason the judge gave you!!! And shall it be said that in Albany they let go the rich and powerful, whilst in New York, where they dont bring to justice with speed, at all events, the powerful and the influential assassin, that you twelve men, singled out from this great community, will hang this idiot for his poverty? That you, in opposition to all precedent, will say, we have no doubt of his insanity; will say, by your oaths, that he was sane at the time he committed this deed, a poor, forsaken, friendless man, with the malformed skull—the vacant, dejected imbecile. Oh, yes! Hang him, and let the ex-senator go!!! And then,

> "Over the stones, rattle his bones,
> He's only a pauper, whom nobody owns."

But I am greatly mistaken in you, if in this case that result ever happens.

Gentlemen, I have, to the best of my ability, reviewed the testimony. I have cited medical authorities, showing cases where conversations and acts of peculiar and extraordinary nature, and even homicide, have been committed, when people have been unconscious and temporarily insane. I have brought cases right to this man's door, and I have gone, as I before said, into the camp of the enemy. I am alone, unaided, save by the patent fact, which they cannot deny, permit me to reiterate, of this man's idiocy. I have placed him upon the stand! You have heard the circumstances of horror under which this deed was perpetrated. It now becomes your duty to consider this momentous question—was he, BEYOND ALL DOUBT, a sane man when he committed that motiveless deed? And inasmuch as you cannot answer in the affirmative, you must not, you dare not, convict this prisoner!

The learned District Attorney may, and probably will, with his power and his eloquence, appeal to you as I could—nay, not as I could, but as they *do* themselves—those dear little children and that poor widow. They are here to-day, to tell you, gentlemen, of their father's murder, and I am not in error when I say, with the District Attorney, that no eloquence can depict the sad reality before you. They are entitled to and they must have your sympathies and mine.

But you should not convict this idiot, because your sympathies are, as mine are, with those orphan children and their widowed mother. I warn you, and I implore you, and whilst I feel it is, indeed, a hard task to ask you, as fathers, for the time to disregard their sufferings, the same humanity, gentlemen, the same propriety of feeling, the same humanity which prompts that undeniable sympathy for these little ones, asks this, also, for him who made them orphans! and I tell you why: because it is not a cold-blooded assassination of premeditation—of malice—of revenge—of purpose—or of motive; and because it was a horrid deed, perpetrated by a lunatic, and one *who knew not the effect of his act; who knew not the suffering he was entailing upon them;* and I verily believe, now, that the ordeal through which we all have passed, has had no more effect upon that piece of vitalized clay (here counsel pointed to the prisoner), than upon this chair which is beside me. He seems to have no terror for the consequences of the deed he committed; but his entire demeanor, gentlemen, endorses the question put by the juror, that after the commission of that deed, as Hamlet says,

"*The rest was silence.*"

Oh, how much there is in that! No knowledge of the wrong, but unconscious of everything—knowing nothing of the past, and alone in the world! Let me ask you what will society gain by strangling an insane and lunatic human being? I acquiesce with the District Attorney, most cordially, that when murder has been committed, let juries be prompt to render their verdict; let the assassin be taken from the court-room, and if you please, within a few brief weeks, let law vindicate justice; let the executioner perform retributive justice for society, but be sure, gentlemen, oh, be terribly sure, that you have a *culprit* and not a *victim!!! Be sure, I say, about it*, and *no doubt*, for your conscience' sake, and for your everlasting peace!!!

Oh, gentlemen, your position is, indeed, an awful and responsible one! It is the most painful, the most trying that has ever happened; and I say, without fear of contradiction, it is the most painful ordeal through which you will ever pass. This case now rests with you; I have discharged my duty to the best of my ability, and according to the dictates of my conscience. This poor outcast has no paid advocate to defend him. I am speaking for him for charity, for humanity, and for justice.

Oh, gentlemen, do not deem me rude or offensive when I tell you to discard the doctors; discard the language of the District Attorney, and with all deference, even the dictates of the learned Judge. Consider the common-sense facts of this case, and take with you to your room the picture of that idiotic, imbecile man; and if, amongst you twelve, one or two suggest, "Oh, convict him; hang him!" then let his picture, photographed upon your minds, obtrude itself, and you will silence the man

who asks for a conviction. Oh, do not mistake lest you may think that I urge that you should let loose upon society, one who may be dangerous to us, as has been proven. Let me call your attention to the words of the statute on the subject:

"Upon any indictment of any offense consisting of different degrees, the jury may find the accused not guilty of the offense in the degree charged, but may find the prisoner guilty on any degree of such offense inferior to that charged in the indictment."

Now, gentlemen, in this case, with all its bearings, you may find that poor wretch, if you please, if you can reconcile it to the evidence, and to your consciences, guilty of murder in the first degree, and murder means the killing of a human being, with premeditation and malice—*knowing that he was killing*—knowing that he was doing wrong. I am sure I may safely discard that in this case.

You have the power and the privilege to find him guilty of murder in the second degree. For that this poor pitiful object may be immured within the dungeon walls for the term of his natural life; and in that event I predict that when within his coffined tomb of stone, Death claims it's victim, and when after death, an examination of the brain proclaims insanity, you will remember the scene in this court-room, you will remember my feeble voice proclaiming disease within that malformed skull, and then how great! oh! how happy, will be your congratulations that you did not hang the poor lunatic outcast—that you did not hang, as a victim for all the refined and cultured criminals of great New York—the poor beggar who is "*out in the streets.*"

Oh gentlemen, to violate the living temple which the Lord hath made,—to quench the human flame within a human being's breast,—is an awful and a terrible responsibility! And I tell you, that if you improperly condemn this wretched man, and consign him to an ignominious death, and a *post-mortem* examination shall hereafter reveal his brain diseased; then gentlemen, the recollection of this day *will never die within you.* Your crime, for so it will be,—will pursue you with remorse, like a shadow through your crowded walks. It will hover beside you on your pillow. It will sit at your table. It will ever be present through the remainder of your lives; and at the "*Great Last,*" taking the form of this man's spirit, it will rise to sink and condemn you before the Judgment Seat of God!!!

At the conclusion of the foregoing speech the District Attorney, Honorable S. B. GARVIN, spoke as follows:

*May it please the Court, Gentlemen of the Jury:*

I have, through the period of a quarter of a century, tried a great many cases of great importance, not only civil but criminal.

And in all such cases I have found that sensible men always sympathize with the prisoner.

They consider his position and his condition more than that of any other person, for the reason that he himself is present, a living man, to answer for himself.

But in all these cases, gentlemen, you must remember there is one who is absent. He is gone. He never appears on the stand. He cannot testify; his mouth is "*sealed in death.*" He is away from his own family, and his children who were around him are with him no more.

You must remember that when he sat at his fireside, he sat as you and I sit in our own houses, under our own vine and fig tree, with the right of no man to invade it.

And, gentlemen, it is protection that we want for your wife and mine, your children and my children, when we come forth every day to prosecute the ordinary business of life.

We do not know whether we shall be safe when we sit at our own table with our children, after a hard day's work, to enjoy a season of rest.

Now, gentlemen, I make these observations, that you may be called back to consider this terrible deed—an awful deed—because the prisoner's counsel does not stand up here for one moment to say but that this prisoner did not inflict the blow that sent Townsend to his long home without a moment of preparation. He went unannointed into the presence of his Maker, by the hands of this prisoner, whose face he never saw before. And he knew it when he went into the house, just as well as he did when he went into the shoemaker's shop, and stole the knife with which he committed that deed of blood.

In considering this case, I trust you will do it yourselves alone, without any aid from me, after hearing such observations as shall strike me as pertinent to the case. It is not for me alone to say that this man shall be convicted or acquitted; but you yourselves, every man on his conscience, shall say whether or not the case is made out against him.

You are responsible. You are responsible to yourselves; you are responsible to the community; you are responsible to this great people; you are responsible to Him before whom you must soon appear, be it longer or shorter.

The time will come when you must give an account of your conduct here to day, whether it be for good or evil.

Now, gentlemen, as I said before, in considering this case, the court will say to you, I have no doubt, what the rule of law is in regard to cases of this description.

I walk up to my friend and take his life with a knife, or a ball, or dagger, or by any physical force, and who is going to punish me? Not the District Attorney, nor anybody; but a jury of twelve men, they are to say whether or not crimes of this kind are to be tolerated.

We come down to the jury of twelve men in all the great transactions of life, civil as well as criminal.

Men hang by the jury's verdict; men hold their property by the verdict of a jury; society is protected by the verdicts of juries.

You are protected, by night and by day, by the verdicts of juries.

Why is it then that the law has said that when a man takes the life of another he shall forfeit his own life?

It is just to inflict the highest penalty known to the law, which is life for life. If you take life you shall be executed. If you take your neighbor's life you shall be executed.

If you take the life of any human being, no matter who he is, whether the highest or the humblest man in the community, you shall forfeit your life for his. My life is as dear to me as is yours. It is God's honest rule; it was ordained by heaven.

It should be observed by all men, and no sickly sentimentality should

deter you, when satisfied that murder, foul murder, has been committed, from doing your duty.

Is there any doubt about this case? The case is clear on the part of the people. What is the defense which they set up? It is, that this prisoner is insane, therefore not responsible. Have they given us a single fact as to his former history? Have they given us a single fact as to where he has been? what he has been doing? or what has been the course of his life? No foundation has been laid by the witnesses for the prosecution, or the prisoner, upon which to found such an opinion. Nothing on that subject; and that is the reason that when I rested the case for the prosecution, I had not a single doubt as to his mental condition, character, state of sanity, or otherwise; and the court will charge you that sanity is always to be presumed unless there is some evidence to the contrary. That is the rule of law. All men are presumed sane until there is some evidence to the contrary. Thus we stand.

Prisoner's counsel says there is no motive for what he did. Motive! Why, some of the very cases that he reads here to-day arose from personal inconvenience. It may be from a sudden miff. It may arise from laying a hand on a man's shoulder,—this depraved condition of the human mind bursts forth, resulting in violence. What did this prisoner go in there for? He did not say, "You are my brother;" the evidence is, "I am your brother."

Was there anything strange about that? The great Lord Chatham said to a colored man, "You are a man and brother." How often is it that men say to each other, "My brother?"

Is there any delusion about it? Is that one of the things upon which a man can stand defended in a court of justice? That won't do.

Did this prisoner talk like an insane man? Did he act like an irresponsible being? Was any portion of his conduct like that of a man who did not know what he was about—the difference between right and wrong? He went down into the basement, five steps, and walked right through into the store, seated himself on a chair, and says, "I am your brother. I wish to stay all night." And Townsend told him, "You cannot stay here; I haven't room enough for my own family. I can't keep you; you must go. Please go." In the mildest possible manner, "Please go out." Prisoner went into the front part of the store and sat down on a milk can.

Mr. Townsend seeing that he was not going out, walked up to him again, and said, "Please go out," and put his hand gently upon his collar or shoulder.

Is there anything, even the slightest evidence of insanity, thus far? Then prisoner turned around and stabbed him to the heart in a moment; but by reason of the great strength and vigor of Townsend, a man of fifty years of age, he carries this prisoner, by main strength, to the steps, and he there falls down from the loss of blood from the wound which this prisoner had perpetrated.

He killed him because he would not keep him all night; because he would not recognize him as a brother or as a man. Motive!

Take the case of Rodgers. What did he do? Rodgers was walking with two of his comrades in the street, in this city. He met a gentleman walking with his wife, and ran against them, and the gentleman asked him why he did so, and Rodgers turned around and stabbed him to the heart.

He died instantly on the spot, and went to the God who made him, without a struggle, or a groan, on the streets of New York. I ask you what possible motive could Rodgers have for such a murder? He was tried, convicted, and executed.

The motive he had in committing crime was malicious, and the law says it is malice.

The jurors say it is malice. All the civilized world says, if a man takes the life of another, he does it through malice, unless he can show to the contrary.

Again, take the case of *Friery*, who was tried in this city. He went into Lazarus' place, and said, "You are a good fellow," and he put his arm round his neck, and plunging a knife into his neck, killed him.

What was the motive? Friery was tried, convicted, and executed.

Now, again, gentlemen, was he (Reynolds) insane? Was going into the shoemaker's shop any evidence of it? What does he say when there?

"Have you got any work?"

"Where have you been to work?" and he says, I haven't had any work for so many months.

"What kind of work do you do?" "Pegged work." The man says, "I have no work for you." A little consultation takes place between the parties, and he goes away.

Before he goes, he steals a knife, and puts it in his pocket.

The next place he goes into, he sees if he cannot get something else, and he says so in so many words. When he goes into Townsend's, he has the knife in his pocket, and is told, "I cannot lodge you."

You must recollect that he had been stealing. Perhaps he did the same thing in several different places during the day; and he comes along after six o'clock, when darkness had come over the earth, and he says to Townsend, in the basement, "I am your brother," and, "I want to stay all night;" and he was told that he could not stay there, and he leaves the back room, and Townsend follows him, and puts his hand gently on him, and says, "You must go," or "Please go," or whatever was the form of expression; but I think it was the latter, and he stabbed him.

What else does he do? He resists with all his strength.

The officer is unable to take the knife out of his hand. Does the counsel know any reason why? Do you know any reason why? Has any sane man any doubt as to the reason why?

He expected to get away, and he did not mean to leave that evidence of his guilt behind him.

One of the witnesses swears that he lay perfectly still for a few moments, and then suddenly jumping up, tried to run away.

On his way to the station-house, some one said, "Hang him," and he said, "Hanging is played out."

Did he not understand what he was doing? Perfectly.

Did he not know what the penalty for his crime was? Perfectly.

What did he have on his mind when he said, "Hanging is played out?" The crime he had committed—the murder he had done.

Again, gentlemen, when he goes to the station-house, what does he do?

Is it very remarkable that a man, when he stands up before a captain of police, and is charged with some offense, and is asked what his business is, to say he is a thief? The counsel thinks so—I do not.

I have heard hundreds say the same thing in court.

Bring a man up on an indictment.

Are you guilty or not guilty? "Guilty."

He takes the chances of going to the State Prison, and hundreds of them admit every day they are thieves and burglars, in our courts of justice, and this man said only, "I am a thief."

That is his business—a thief; and yet it is said, "Acquit him."

Again, what is the medical evidence on this subject?

Now, the counsel on the other side says, I did not call the medical witnesses.

Why should I call them? I have proved that Townsend was alive and well, and on the 29th of January he died, and this prisoner killed him.

I made out my case. But why should I have the doctors subpœnaed? because, the counsel, when the prisoner was arraigned in this court a few weeks ago, said that his defense would be insanity.

What could I do, as the prosecuting officer, but to subpœna medical men to attend, and have this prisoner examined, and to converse with him? and if Dr. Hammond had reported to me that this man was insane, I would have said, let him go.

The medical testimony is certainly entitled to some weight. I did not call it out. I haven't called these witnesses. I should not have called a witness at all on that subject, but when they were on the stand I examined them.

Dr. Hammond says: "I have had two conversations with this prisoner of an hour each." The result of those examinations you have heard.

Had he been insane before that? Had he had any disease of any description? You have the declaration of the prisoner that he had not.

The Doctor now says we would not take his word for it. "We went on to examine him, and we found everything in a natural condition."

Dr. Nealis says that he has examined him every day since he has been in the Tombs, and talked with him every day, and saw no signs of insanity whatever. He has attended 700 or 800 to 1000 cases, and he has not found one single indication of insanity in this prisoner at all.

Now, gentlemen, all the facts in the case go to show that the prisoner is sane.

The law is, that if a man shall murder another he shall forfeit his life for so doing. What have you got to say about this case. I do not propose to talk to twelve men about it for any length of time. I propose to discharge my duty, and then let you do yours.

Gentlemen, the facts are against this prisoner; the medical testimony is against him; common sense is against him; but the counsel stands up here to-day, and asks you to find him insane.

He is guilty of murder in the first degree, or else he is not guilty of anything, and must be acquitted.

Let me say to you—you give this man his liberty, and let him go, and you give license to every scoundrel and cut-throat in the city of New York, to butcher anybody they see fit to, and all they have to do is to go into a court of justice and plead insanity, and then be discharged.

I say, again, that when crime is as rife as it is at present in Philadelphia, in Boston, in Brooklyn, and all other large cities in this country, and seems to be spreading and permeating the whole country from one end to

the other, and a case is clearly and fairly made out, is it right that the prisoner should be acquitted? Such a course is fatal to the safety of this metropolis.

I can stand it, perhaps, and you can, but when you do it, remember that every time you walk out after dark, the assassin may be upon your heels for the purpose of taking your life.

When you leave your wife and children in the morning, to attend to your daily avocations, you do not know but when you return you will find them all dead.

It may be with you as it was in the case of Townsend.

When you go up to your bed at night, it may be to find a burglar within your room, and if you resist him your life will be taken.

I tell you, gentlemen, there is blood in the air, and unless you put a stop to this carnival of crime by your verdict, there is no knowing where it may end.

This is not the first time that I have addressed a jury in this city in important cases. A year ago to-day, I stood here before a jury, in the case of John Real. That case has been pressed by the utmost efforts of the District Attorney, and he lies in the Tombs to-day on an appeal to the Court of Appeals.

It is not my fault, or the fault of the public, but it is the *law's delay*, and we cannot help it. He has a right to all the forms and delays the law gives him. Other cases which have been of long standing are in the Tombs. In one case a commission has gone to Liverpool, and another some where else. One witness is being examined on the Island of Cuba in another case.

It is not for me to tell you why men are not tried. All cases will be tried when they are ready, and not before. When prisoners are ready for trial, we bring them for trial before a jury; and I ask you, as sensible men, not to be led away by this sort of nonsense.

When a man plunges a knife into the bosom of another and kills, he must have some other evidence of insanity besides this theory of astute counsel, read from books, without any facts to sustain it, before the prisoner can be acquitted.

You have this case. I have done my duty, and I ask you to do yours; and I ask you to do it courageously, and as high-minded, common-sense men, and give us such a verdict as will satisfy your own consciences, when you shall stand in that awful presence where the secrets of every soul shall be revealed, and a light like that of ten thousand guns shall illuminate the inmost recesses of every heart.

Judge Ingraham then delivered his charge to the jury, as follows:

*Gentlemen of the Jury:*

You have, no doubt, a solemn duty to perform. Solemn, because it affects the future welfare and well-being of the man who is on trial before you, and to him it is indeed a solemn and important occasion.

You have also a solemn duty to perform to yourselves, because you have taken an oath to decide this case according to the law and the evidence which is presented to you.

You have sworn that you will find a verdict.

Whether that verdict shall be for or against the prisoner. The solemnity not only extends to the prisoner but to yourselves, and it is just as im-

portant that you should discharge this duty on your own behalf as you should to the prisoner.

No external influences should interfere with you in this matter.

Your verdict must rest on this evidence and this evidence alone, and you need not go to anything else or suffer any other considerations to influence you, because if you do, you will do a wrong to yourselves, and fail in the performance of your duty.

Nor should you suffer passion or prejudice, or any other thing to influence you at all in this matter.

Neither fear nor favor, neither public clamor, nor any other consideration should enter into the minds of the jurors, when called upon to pass on a question such as this.

Nor should you suffer ideas that some entertain in regard to capital punishment, to weaken your judgment or affect your decision. You are called upon here to decide simply the question whether he is guilty of the crime charged upon him. You are to decide upon the guilt or innocence of this man, and if you find him guilty, I have but to pronounce that which the law pronounces.

It is the law, not you or I.

With these remarks then, let us endeavor for a few moments to withdraw your thoughts from everything except the matter which you have to dispose of, and let us look at the evidence and the law applicable to it, and let us ascertain what the decision should be.

There may be, gentlemen, and there often are, doubts remaining in the minds of the jury in regard to the proof which is furnished for the purpose of convicting a prisoner, and the rule of law is that, when such a doubt exists, it shall be given to the prisoner; or, in other words, it is the duty of the public prosecutor to prove to you the case which he attempts to make out against the prisoner. If he fails to do so, then the prisoner is entitled to an acquittal.

The prisoner is charged with the crime of murder. Murder in the first degree is killing a human being without any justifiable or excusable cause, and the person committing the act has determined to take his life.

It is not necessary that that determination should have been made any length of time previous.

The determination may be made the time the deed itself is committed.

If, at the time the blow is struck, the prisoner has determined to take the life, and then strikes the blow and takes life, it is murder in the first degree.

There is no pretence here that it is justifiable or excusable.

It is hardly worth while for me to refer you to that. There is no doubt about the case or the person who committed it.

There is no doubt about the weapon by which it was done; and there is no doubt as to the consequences attending it.

Now I think, therefore, that I may confine myself to a few remarks I have to make as to the defense of insanity which is set up here.

Insanity, gentlemen, relieves a man from all responsibility.

If any act is done through the existence of insanity, the law does not permit such a person to be tried or punished for such an act, when he is insane.

So careful is the law of the life of a human being in this respect, that it

neither permits him to be tried or punished for such an act while insane, and the question here for you is to decide whether this man, at the time of the commission of this act, was laboring under any degree of insanity to make him irresponsible.

Now the legal definition of insanity, and the definition of insanity by physicians, differ.

A physician considers a man insane who does anything out of the regular order of nature—anything which differs from the normal state in which men ought to be.

The law does not consider that difference. A man may be insane upon one particular point, and not insane upon any other point.

But the rule is this, that if a man knows that he has committed an act unlawful and morally wrong, he is responsible for such an act.

That is the rule which has been adhered to by our court, and the courts in England, and has been repeated invariably, from time to time, in all times.

There is nothing shown here to us that at any time previous to the commission of this act, the prisoner had ever sustained any injury to produce insanity; that he had any of the diseases which the learned counsel has read from the books, or that he had on any occasion offered any evidence of insanity.

Sanity is to be presumed: it is always to be presumed that a man is in the natural condition in which he was born, and that insanity is to be proved otherwise.

Take that as a rule, and down to the time when this offense was committed, there is no evidence whatever.

There is no proof to show that he was ever insane, or ever afflicted with any disease which would produce insanity. When you come to the transaction itself, what was there in that?

The prisoner, certainly, through the whole of that transaction, showed knowledge in regard to what he was doing.

His first act was to go into the shoemaker's, and when he sat down on the shoemaker's bench, he conversed for a while, and then secretly concealed the knife which he found on the bench, and with it he left the place.

Then he went into the next basement—the grocery store—and there he went through the front part of the store into the back, where Mr. Townsend was sitting, and he addressed him in the words which have been repeated two or three times, calling him a brother, and said that he wanted to stay there.

In all this there was nothing unusual. He was told that he could not stay there, there was no accommodation for him; and he saw in that place at the time two little girls and a baby, and no others were there.

I feel some hesitation in saying to you, but it seems to me there is some evidence in the case to which your attention has not been directed.

After this act was committed, this man was asked by the officer whether he went there to steal, and he said that he did; and on examination before the sergeant in the evening, at the police office, when asked what his employment was, he said he was a thief.

Now, if there is any truth in these remarks, it then opens a road to the *motive*.

He saw no one in that place but Townsend and these little children; and if his object was theft, it was easily to be gratified after the destruction of Townsend.

Whether that was his motive or not I cannot say; but I feel that I am doing no more than my duty by calling your attention to it in this case, because it is in the evidence before you.

He did not succeed, because the strength of Townsend was such as to enable him to bring him to the door after injuring him.

After he (Reynolds) was down on the steps he remained quiet; and Townsend was taken or got up from him, and he (Reynolds) watched his opportunity and attempted to escape.

Then, in his passage to the police station, he was with the officer, and we have *no evidence of anything tending to show insanity.*

Now, this is the history of his actions, and it is from his actions we can judge of the sanity or insanity of the prisoner.

The physicians have examined him, each of them two or three times, and each and all of them have testified, without any hesitation, that they never seen anything insane in any way. They all pronounce him, from that time, the 6th of February, to be a sane man.

Now, gentlemen, this is the evidence on this subject, and there is no doubt, perhaps, about what has been written in the books which have been read to you.

It is seldom that you will find a case where a man is sane one moment and insane the next moment afterward.

I do not know that there even have been cases where such occurred.

*This is the only question which is between you in the decision of this case:* Was there a motive sufficient to justify it, or was it a mere aberration of the man's mind?

Now, with all the evidence before you, you are called upon to decide whether this man was insane or not.

I need hardly call your attention to the fact of a law which allows you to convict the prisoner of lesser degrees of the same crime.

*This is not murder in the second degree, because murder in the second degree is killing a man while engaged in the commission of a misdemeanor or felony.*

Something has been said about the three cuts upon the hand, as has been explained. Those cuts might have been accidental, but the main blow is the one toward the heart, and the others might have very easily taken place on the steps, when he was dragging the man out.

Gentlemen, I think I have now said to you all that is necessary, and will leave the case with you.

It being now 2.08 P. M., the jury retired, but returned for instructions at 3.05 P. M.

*Norman J. Reeves*, a juror, said: Have we a right to bring in a verdict of a less degree than the first?

*Judge Ingraham.* Killing a person without the due authority of law, is murder in the first degree.

*Mr. Howe.* I ask your honor to charge the jury now, that they have the power to convict of murder in the second degree. That such a verdict would be valid and lawful. This the court refused to do.

*By a Juror.* What is the punishment for the second degree?

*Judge Ingraham.* Imprisonment for life.

The jury then retired a second time (4.10 P. M.)

*Judge Ingraham* said: One of the jurors (Charles Jones) wants to know whether there was any evidence, direct or indirect, showing that the prisoner was insane at the time of the commission of the deed.

The only answer I can give you to that is, *that there was no evidence at any time whatever that there was any insanity.*

The learned counsel, Mr. Howe, has asked you to infer that from the transaction itself; but there is no evidence at all that this man ever was insane at any time, and the physicians all say that he was sane when they examined him.

*Chas. Jones* (*Juror*). I take this view of the case, because I want to do justice,

*Judge Ingraham.* As I said before, there is no evidence that he was insane at any time, and the only thing that the counsel furnishes you with is that of his acts during the transaction.

*Juror.* Is it not possible that he was insane at that particular time?

*Judge.* That is for the jury to decide. If, from the examination of the circumstances, you come to the conclusion that he is insane, you have a right to say so.

The jury then retired, and returned again at 4.55 P. M., and the Clerk called their names. They were then requested to arise, and asked to look upon the prisoner, and the prisoner upon the jurors.

They declared that they had found the prisoner guilty of murder in the first degree.

The jury was then polled, and declared that the above verdict was their's, individually.

*Assistant District Attorney Fellows*, who was present, arose and spoke as follows:

May it please your honor, I move that the judgment of the law, which this sentence carries with it, be imposed upon the prisoner, John Reynolds.

*Mr. Howe* said: May it please your honor, having now discharged my duty, so far as this tribunal is concerned, for this friendless man, I ask your honor, as is usual, that you will defer the passing of the sentence until I may resolve in my mind what course I shall adopt in reference to this man, and as to what motion I will have to make in arrest of judgment. I only ask until to-morrow morning.

*Judge Ingraham.* Let the prisoner be remanded till to-morrow morning.

The court then adjourned at 5 o'clock P. M.

## THIRD DAY.—*Wednesday, February 23d*, 1870.

The court reassembled at 10.30 this morning, and the prisoner having been placed at the bar of the court, and duly interrogated by the clerk of the court, what he had to say why sentence of death should not be passed upon him according to law; and making no reply—

*Judge Ingraham* said: You are to be sentenced, Reynolds, for killing Townsend, a man with whom you had no difficulty, and for whose killing there was no excuse. Before doing it you went into another place, and there took a knife and concealed it, keeping it concealed until you found an op-

portunity of stabbing him, in his own house, among his own children, with none others present. What your motive for doing it was we do not know, but there is some suspicion that it was for the purpose of doing other wrong and improper acts. You have been tried by a jury of very intelligent men, who have given your case a very thorough examination; listened attentively to the testimony, and have agreed that you are guilty. With that verdict the court does not at all differ. The murder was a cruel one on your part, entirely unprovoked; and there is nothing to excuse or justify it. You don't now offer any excuse?

*Prisoner.* I don't know anything about it.

*Court.* Your conduct shows you did know.

*Prisoner.* I don't know only what they told me.

*Judge Ingraham.* You may have been excited by liquor, but that don't excuse you. If a man is allowed to indulge in drinking and then kills his fellow-man, he is not excused on account of drinking. The law does not excuse you; it holds you responsible; and I have no other duty left for me now but to pronounce upon you the sentence of the law. It is not the sentence of the court, but the sentence of the law, and the law makes your life forfeit to the country for taking the life of another. And now I advise you, before pronouncing that sentence, to lay aside any hope that you may have that this decision may be altered or extended.

The character of your offense, as well as the great number of offenses of a similar kind that have been perpetrated continually in this city, calls for the execution of the law, not only in your case, but in others when they shall have been convicted, and instead of looking for hope here, I urge you to prepare yourself for the event that is before you. When the time comes which will be fixed for the execution of your sentence, you will be executed, and you will pass from this world into another. In the meantime you have the opportunity afforded you to prepare for that event. It is not too late for you to make that preparation, and I advise you, therefore, to lay aside the hope of getting pardoned, and seek for that preparation which is necessary for you before the time comes which is fixed for your execution.

The sentence of the court is that you be carried hence to the prison from which you have been brought, there to be confined in close custody until the 8th day of April, and that on that day you be hanged by the neck until you are dead, between the hours of 8 and 2 in the afternoon, and may God have mercy on you.

The clerk of the court, Mr. Vandervoort, then read the death warrant, and delivered it to Deputy-Sheriff Isaiah Rynders, who has charge of the condemned.

At this announcement the doors of the court were ordered to be barred, to prevent the egress of the vast audience, and the condemned man who seemed in no perceptible manner affected by the sentence, was conveyed to an adjoining room, and from thence to the street, but before gaining the Tombs, the crowd again flocked around him, and amidst the hootings and yelling of the *gamin* he was lodged in his dark cell on the lower tier of the prison, moody and dejected, to receive such spiritual comfort as would prepare him for the next world.